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BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER

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Commissioner

2006 OCT -6 P 4:01

AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION
OF DIECA COMMUNICATIONS DBA
COVAD COMMUNICATIONS COMPANY,
ESCHELON TELECOM OF ARIZONA, INC.,
MCLEODUSA TELECOMMUNICATIONS
SERVICES, INC., MOUNTAIN
TELECOMMUNICATIONS, INC., XO
COMMUNICATIONS SERVICES, INC. AND
QWEST CORPORATION REQUEST FOR
COMMISSION PROCESS TO ADDRESS KEY
UNE ISSUES ARISING FROM TRIENNIAL
REVIEW REMAND ORDER, INCLUDING
APPROVAL OF QWEST WIRE CENTER
LISTS.

DOCKET NOS. T-03632A-06-0091
T-03406A-06-0091
T-03267A-06-0091
T-03432A-06-0091
T-04302A-06-0091
T-01051B-06-0091

NOTICE OF FILING REBUTTAL
TESTIMONY OF RENÉE
ALBERSHEIM, DAVID L. TEITZEL,
RACHEL TORRENCE AND TERESA
K. MILLION

Pursuant to the September 20, 2006 procedural order in this proceeding, Qwest Corporation hereby files the Rebuttal Testimony of Renée Albersheim, David L. Teitzel, Rachel Torrence and Teresa K. Million. Copies of the highly confidential material are being provided to the parties that have signed the Protective Agreement.

RESPECTFULLY SUBMITTED this 6th day of October, 2006.

Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
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KRISTIN MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. T-03632A-06-0091
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COMMUNICATIONS COMPANY, ESCHOLON)	T-04302A-06-0091
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XO COMMUNICATIONS SERVICES, INC. AND)	
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UNE ISSUES ARISING FROM TRIENNIAL)	
REVIEW REMAND ORDER, INCLUDING)	
APPROVAL OF QWEST WIRE CENTER LISTS)	

**REBUTTAL TESTIMONY
OF
RENÉE ALBERSHEIM**

QWEST CORPORATION

OCTOBER 6, 2006

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EXECUTIVE SUMMARY

This testimony responds to the rebuttal testimony of Mr. Douglas Denney of Eschelon Telecom on behalf of the Joint CLECs regarding the future process for updating the list of "non-impaired" wire centers pursuant to the FCC's requirements in the Triennial Review Remand Order ("*TRRO*") and the FCC's associated implementation rules. Specifically, this testimony responds to comments regarding blocking of orders for UNEs in non-impaired wire centers, the timing of the process for updating the list of non-impaired wire centers, and the notice to impacted parties regarding updates to the list of non-impaired wire centers. This testimony also responds to the testimony of Mr. Armando Fimbres of Commission staff regarding his recommendations for implementing order blocking and future wire center proceedings.

I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH QWEST.

A. My name is Renée Albersheim. I am employed by Qwest Services Corporation, parent company of Qwest Corporation ("Qwest"), as a Staff Advocate. I am testifying on behalf of Qwest. My business address is 1801 California Street, 24th floor, Denver, Colorado, 80202.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. On June 23, 2006, I filed direct testimony in this proceeding.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to the responsive testimony of Mr. Douglas Denney of Eschelon Telecom filed on behalf of the Joint CLECs and to the responsive testimony of Mr. Armando Fimbres filed on behalf of the Arizona Corporation Commission Staff. Specifically, I will discuss Mr. Denney's statements with regard to the Joint CLECs' proposed requirements for the process of updating the list of "non-impaired" wire centers in the future pursuant to the Triennial Review Remand Order ("TRRO") and the FCC's associated implementation rules. I will also discuss Mr. Fimbres' statements regarding implementation of order blocking and procedures for additions to the list of non-impaired wire centers.

1 **III. UPDATING THE LIST OF NON-IMPAIRED WIRE CENTERS**

2 **Q. PLEASE SUMMARIZE YOUR REVIEW OF MR. DENNEY'S STATEMENTS**
3 **REGARDING THE PROCESS FOR UPDATING THE LIST OF NON-IMPAIRED**
4 **WIRE CENTERS IN THE FUTURE.**

5 **A.** First, despite Mr. Denney's rhetoric, Qwest and the Joint CLECs are not very far
6 apart in their approach to updating the list of non-impaired wire centers in the future.
7 We agree that there should be a single, unified process that includes Commission
8 involvement and approval. As I will explain further below, we only disagree on some
9 issues of timing, as well as a few of the administrative details that the CLECs
10 demand.

11 **Q. SHOULD SUCH A PROCESS DELAY THE ADDITION OF NEW WIRE CENTERS**
12 **TO THE LIST OF NON-IMPAIRED WIRE CENTERS?**

13 **A.** No. Qwest does not believe that this process should be used as a means to delay
14 the appropriate designation of new wire centers as non-impaired. Therefore, Qwest
15 would ask that any such process be expedited, and that the designation of new non-
16 impaired wire centers be effective 30 days following the initial notification to CLECs
17 and the Commission that the impairment status for that wire center has changed. If
18 a dispute to the change in impairment status for that wire center were to be raised
19 and a proceeding is subsequently established to resolve the dispute, Qwest would
20 not implement a change in rates until the proceeding is complete; however, Qwest
21 believes it should have the right to back bill CLECs to the effective date if the
22 change in wire center status is subsequently approved. Qwest also believes that the
23 result of the docket should be binding upon all parties.

1 Q. MR. DENNEY STATES AT PAGE 50 OF HIS TESTIMONY THAT, "THIS
2 PROCESS NEED NOT BE LENGTHY FOR A NUMBER OF REASONS. FIRST,
3 ADDITIONS TO THE WIRE CENTER LIST ARE ALMOST CERTAINLY LIKELY TO
4 CONTAIN FEWER WIRE CENTERS THAN THE WIRE CENTERS BEING
5 INVESTIGATED IN QWEST'S INITIAL FILING. SECOND, THE ISSUES IN THE
6 INVESTIGATION TO UPDATE THE WIRE CENTER LIST WILL BE NARROW."
7 DOES QWEST AGREE WITH THESE STATEMENTS?

8 A. Yes. Qwest and the CLECs are in agreement on these points. The issues in a new
9 proceeding should be narrow, and therefore, the proceeding should not be
10 prolonged.

11 Q. MR. DENNEY SUGGESTS AT PAGE 42 OF HIS TESTIMONY THAT QWEST
12 INTENDS TO SUBMIT THE NAME OF A WIRE CENTER, AND NOTHING ELSE,
13 TO SUPPORT A CLAIM OF NON-IMPAIRMENT. IS MR. DENNEY CORRECT?

14 A. No, not at all. Qwest will include supporting data to verify that a new wire center is
15 non-impaired in accordance with the FCC methodology as ordered by this
16 Commission. Qwest has no intention of making a claim of non-impairment without
17 data to support such a claim. Qwest recognizes, however, that some of the
18 supporting data will be highly- confidential CLEC-specific data. Thus, in order to
19 avoid the possibility of delay in the CLECs' ability to review this data, Qwest
20 proposes that this Commission establish a standing non-disclosure agreement or
21 protective order, much like the protective order established for this proceeding.
22 Such an agreement would allow CLECs plenty of time to review the supporting data,
23 and decide whether or not they wish to dispute the addition of a new wire center to
24 the list of non-impaired wire centers.

1 **Q. WHAT DATA WILL QWEST INCLUDE IN A FILING TO ADD A WIRE CENTER TO**
2 **THE LIST OF NON-IMPAIRED WIRE CENTERS?**

3 **A.** Qwest will provide, under the appropriate protective order, sufficient detail to enable
4 the CLECs to validate the access line counts and fiber-based collocater counts used
5 in the future non-impairment analysis. To establish that a wire center has met the
6 business line threshold, Qwest will include, for each wire center:

- 7 • The latest available ARMIS 43-08 line counts, based on official
8 ARMIS data on file with the FCC.
- 9 • Qwest adjustments to ARMIS 43-08 data to derive 64-kbps
10 equivalents for high-capacity (e.g., DS1 and DS3) services,
11 such as ISDN-PRI.
- 12 • Total wholesale UNE loops (e.g., UNE-L and EEL), shown at
13 the aggregated level for the wire center(s) at issue, and by
14 capacity (voice-grade, DS1, DS3). This information will also be
15 provided on a CLEC-specific basis to each CLEC, under
16 appropriate confidentiality protections, to enable the CLEC to
17 verify its own counts for these services.
- 18 • Qwest calculations to derive 64-kbps equivalents for high-
19 capacity (e.g., DS1 and DS3) loops.
- 20 • UNE-P/QPP lines shown at the aggregated level for the wire
21 center(s) at issue and by service type (e.g. QPP-PBX, QPP-
22 ISDN, etc.). QPP lines will also be provided on a CLEC-specific
23 basis to each CLEC, under appropriate confidentiality
24 protections, to enable the CLEC to verify its own counts for
25 these services. UNE-P counts are subject to the limitations
26 discussed in Mr. Teitzel's testimony.

1 To establish that a wire center has met the fiber-based collocater threshold, Qwest
2 will include, subject to appropriate confidentiality protections, the following:

- 3 • Names of the fiber-based collocaters
- 4 • Physical verification information

5 **IV. BLOCKING ORDERS FOR UNEs IN NON-IMPAIRED WIRE CENTERS**

6 **Q. MR. DENNEY STATES AT PAGE 45 OF HIS TESTIMONY THAT "QWEST'S**
7 **PROPOSAL TO BLOCK CLEC ORDERS IN OFFICES QWEST DEEMS AS 'NON-**
8 **IMPAIRED' REITERATES THE IMPORTANCE OF HAVING THE COMMISSION**
9 **APPROVE ANY ADDITIONS TO QWEST'S WIRE CENTER LIST." DOES MR.**
10 **DENNEY ACCURATELY DESCRIBE QWEST'S PROPOSAL?**

11 **A.** No. While Qwest agrees that it is important to have this Commission approve
12 additions or updates to Qwest's non-impaired wire center list, Qwest has not stated
13 that it would "block" orders absent such Commission approval. In fact, Qwest would
14 not block orders for UNEs in a particular wire center unless there are no objections
15 to the addition of that wire center to the non-impaired list, or until the Commission
16 has formally deemed and approved that wire center as being non-impaired. Thus,
17 Qwest is in agreement with the CLECs and Mr. Denney (at page 52 of his
18 testimony) that "order rejection should be limited to wire centers on a Commission-
19 approved list of non-impaired wire centers."

20 **Q. DOES QWEST DISAGREE WITH MR. DENNEY AND THE CLECS ABOUT ANY**
21 **ASPECT REGARDING "BLOCKING" OF ORDERS?**

22 **A.** Yes. Mr. Denney states at page 52 of his rebuttal testimony that "the terms and
23 procedures for rejecting orders must be predetermined and agreed to by CLECs."

1 Qwest does not agree with this proposition, and Mr. Denney takes this issue too far.
2 All that the parties must agree to is when orders may be rejected; and the parties
3 are already in agreement that Qwest will not block orders for UNEs until a particular
4 wire center is on a Commission-approved list of non-impaired wire centers.

5 **Q. MR. DENNEY STATES AT PAGE 50 OF HIS REBUTTAL TESTIMONY THAT**
6 **QWEST ATTEMPTED TO IMPLEMENT A "CHANGE REQUEST" IN THE**
7 **CHANGE MANAGEMENT PROCESS ("CMP") THAT WOULD "BLOCK CLEC**
8 **ORDERS FOR UNES IN WIRE CENTERS THAT QWEST UNILATERALLY**
9 **BELIEVES ARE NOT IMPAIRED." IS THAT AN ACCURATE REPRESENTATION**
10 **OF QWEST'S CHANGE REQUEST?**

11 **A.** Absolutely not. First, as stated in the Change Request, which Mr. Denney attached
12 to his rebuttal testimony as Exhibit DD-6, the Description of Change section of the
13 Change Request states: "Due to the volume of customers that have opted into the
14 TRRO Amendment, Qwest needs to implement edits in those states, for those
15 customers, where a TRRO has been filed, in their states."

16 This Change Request had a very specific goal to make a change only for those
17 customers who have already signed a *TRO/TRRO* Interconnection Agreement
18 Amendment with Qwest. Even then, Mr. Denney neglected to point out that in light
19 of the objections to this Change Request by customers who have not signed the
20 *TRO/TRRO* Amendment, Qwest voluntarily chose to defer the Change Request until
21 these regulatory issues have been resolved. There was nothing unilateral about this
22 Change Request, or about Qwest's approach to it.

1 Q. MR. DENNEY STATES AT PAGE 51 OF HIS REBUTTAL TESTIMONY THAT
2 ILECS MUST IMMEDIATELY PROCESS ORDERS FOR UNES FROM A CLEC
3 WHO CERTIFIES THAT IT HAS UNDERTAKEN A "REASONABLY DILIGENT
4 INQUIRY, AND, BASED ON THAT INQUIRY, SELF-CERTIFY [SIC] THAT, TO THE
5 BEST OF ITS KNOWLEDGE," IT IS ENTITLED TO OBTAIN THE UNE. HOW
6 DOES QWEST RESPOND TO THIS STATEMENT?

7 A. Mr. Denney is apparently quoting from paragraph 234 of the TRRO. While his quote
8 is accurately stated, it is not taken in the appropriate context, and there are inherent
9 contradictions in this paragraph with the arguments that Mr. Denney and the CLECs
10 have put forth.

11 I believe it is important to see the paragraph in its entirety. Paragraph 234 states in
12 full as follows:

13 234. We recognize that our rules governing access to dedicated
14 transport and high-capacity loops evaluate impairment based
15 upon objective and readily obtainable facts, such as the number
16 of business lines or the number of facilities-based competitors
17 in a particular market. We therefore hold that to submit an
18 order to obtain a high-capacity loop or transport UNE, a
19 requesting carrier must undertake a reasonably diligent inquiry
20 and, based on that inquiry, self-certify that, to the best of its
21 knowledge, its request is consistent with the requirements
22 discussed in parts IV, V, and VI above and that it is therefore
23 entitled to unbundled access to the particular network elements
24 sought pursuant to section 251(c)(3). Upon receiving a request
25 for access to a dedicated transport or high-capacity loop UNE
26 that indicates that the UNE meets the relevant factual criteria
27 discussed in sections V and VI above, the incumbent LEC must
28 immediately process the request. To the extent that an
29 incumbent LEC seeks to challenge any such UNEs, it
30 subsequently can raise that issue through the dispute resolution
31 procedures provided for in its interconnection agreements. In
32 other words, the incumbent LEC must provision the UNE and

1 subsequently bring any dispute regarding access to that UNE
2 before a state commission or other appropriate authority.

3 First, if a CLEC is to "self-certify" that it is allowed to order a UNE in a particular wire
4 center, part of the self-certification should include a notice by Qwest that it intends to
5 change the status of that wire center. If such a filing has been made, the CLEC
6 would then be on notice that its authorization to place such an order is in dispute
7 pending a decision by this Commission on the status of the wire center.

8 Second, if the parties intend to interpret paragraph 234 of the *TRRO* in this manner
9 as a guide to the process going forward, this would dictate that Qwest might need to
10 file separate proceedings before this Commission with each CLEC that places
11 orders in a particular wire center that Qwest considers to be non-impaired. This
12 type of process would make no sense, would be unduly burdensome, utterly
13 impractical and ultimately unworkable, and would create a morass of litigation, even
14 though all of the parties here agree that one proceeding for all parties is a more
15 appropriate and desirable mechanism for dealing with any disputed wire centers.

16 Finally, the CLECs seek preferential treatment when, on the one hand, they demand
17 that Qwest cannot (and will not) block orders in disputed wire centers, but on the
18 other hand, they want to be allowed to place orders in the same disputed wire
19 centers. Such orders would simply add to the base of embedded services that must
20 then be converted to new services if and when the Commission deems such wire
21 centers to be non-impaired.

1 **Q. SO, DOES QWEST INTEND TO BLOCK CLEC ORDERS IN A WIRE CENTER**
2 **THAT HAS NOT BEEN DEEMED NON-IMPAIRED BY THIS COMMISSION?**

3 **A.** No. The CLECs' concern about blocking orders is really a non-issue. Qwest will not
4 block CLEC orders until a wire center is formally declared non-impaired, whether by
5 operation of law because there is no dispute, or as the result of the Commission's
6 resolution of a dispute between Qwest and CLECs. Either way, a CLEC's
7 "reasonably diligent inquiry" will advise it that the wire center is non-impaired, and
8 therefore, that Qwest will not be accepting new orders for UNEs at that wire center.

9 **Q. DOES THE COMMISSION STAFF AGREE WITH QWEST'S POSITION ON**
10 **BLOCKING ORDERS?**

11 **A.** Yes. Mr. Fimbres states at page 16 of his testimony: "Staff believes that the Joint
12 CLECs' concern stated on page 52 is alleviated – 'Order rejection should be limited
13 to wire centers on a Commission-approved list of non-impaired wire centers.'"

14 **Q. MR. FIMBRES MADE RECOMMENDATIONS REGARDING THE**
15 **IMPLEMENTATION OF ORDER BLOCKING. PLEASE RESPOND TO THESE**
16 **RECOMMENDATIONS.**

17 **A.** In his list of recommendations, Mr. Fimbres recommended that Qwest develop an
18 interim process for blocking orders. While Qwest appreciates the flexibility that an
19 interim process can offer, Qwest does not believe that an interim process is
20 necessary, and further believes that the order blocking process can be implemented
21 through the CMP. Mr. Fimbres suggested that certain notice be given to CLECs in
22 advance of that implementation. Such notice is already required as a function of the
23 CMP, and Qwest will follow all CMP rules, including rules on notice, to implement
24 the process.

V. TIMING AND NOTICE

Q. MR. DENNEY STATES AT PAGE 35 OF HIS REBUTTAL TESTIMONY THAT QWEST SHOULD GIVE NOTICE TO CLECS BEFORE IT FILES A REQUEST WITH THIS COMMISSION TO ADD TO THE LIST OF NON-IMPAIRED WIRE CENTERS.¹ IS THAT NECESSARY OR APPROPRIATE?

A. No, it is not. Indeed, Mr. Denney does not explain why CLECs should have more than 30 days to inform this Commission if they have any objection to the addition of a particular wire center to the list of non-impaired wire centers. A time period of 30 days notice is plenty of time for CLECs to review the supporting data submitted by Qwest and to determine if they have an objection to Qwest's non-impaired wire center designation. There is no reason that CLECs should be given notice before Qwest actually files a request with this Commission.

Q. MR. DENNEY STATES AT PAGE 42 OF HIS TESTIMONY THAT "CLECS SHOULD BE INFORMED WHEN A WIRE CENTER IS WITHIN 5,000 LINES, OR WITHIN 1 FIBER COLLOCATOR, OF CHANGING DESIGNATION." IS THIS APPROPRIATE?

A. No. There is no reason to add this administrative burden upon Qwest. Additionally, the thresholds that the Joint CLECs set forth are not meaningful. This is especially so because 5,000 lines or one fiber collocator does not mean that a change in the impairment classification for that wire center is imminent. Moreover, advance notification could allow a CLEC to attempt to "game" the system by changing its business plans so that the wire center would be unlikely to meet the threshold.

¹ In other state proceedings on this issue, and in the CLECs' initial request to this Commission to initiate this proceeding the CLECs demanded five days advance notice of a filing. It appears there is no specificity in the amount of advance notice now required by the CLECs.

1 The FCC set forth the appropriate threshold, and requiring reporting in addition to
2 that threshold is an undue burden that the FCC did not contemplate. Nor did the
3 FCC require any such advance notice. Further still, I am not aware of any state
4 commission in any *TRRO* proceeding or arbitration requiring such advance notice. It
5 should be sufficient that when Qwest becomes aware that a wire center has actually
6 met the requirements to warrant a change in status, Qwest will notify this
7 Commission and CLECs that Qwest is seeking a change in the wire center's
8 designation. The Public Service Commission of Utah agreed with Qwest's position
9 on this issue.²

10 **Q. MR. DENNEY STATES AT PAGES 41 AND 42 OF HIS TESTIMONY THAT WIRE**
11 **CENTER UPDATES SHOULD ONLY TAKE PLACE ONCE A YEAR. DOES**
12 **QWEST AGREE?**

13 **A.** No. Mr. Denney's testimony suggests that since ARMIS data is only available once
14 a year, Qwest should be limited to once-yearly wire center updates. Qwest
15 reasonably assumes that Mr. Denney only meant this statement to apply to business
16 line updates, as the ARMIS data only applies to business lines. Additions of fiber-
17 based collocators may take place at any time during the year. Since a change in the
18 number of fiber-based collocators can change the status of a wire center to non-
19 impaired, Qwest should be allowed to make updates to the list of non-impaired wire
20 centers at any time during the year, when that reclassification is based on the count
21 of fiber-based collocators. I also note that the *TRRO* places no limits on the
22 frequency of updates to the list of non-impaired wire centers.³

² See *In the Matter of the Investigation into Qwest Wire Center Data*, Docket No. 06-049-40, Report and Order, September 11, 2006 at page 26.

³ Mr. Denney agreed with Qwest's position on the stand in the Utah hearing. See *In the Matter of the Investigation into Qwest Wire Center Data*, Docket No. 06-049-40, Hearing Transcript, June 13-14, 2006 at page 163-164.

1 Q. MR. DENNEY CLAIMS AT PAGE 46 OF HIS TESTIMONY THAT FOR WIRE
2 CENTERS THAT ARE ADDED TO THE LIST OF NON-IMPAIRED WIRE
3 CENTERS, QWEST'S PROPOSED TRANSITION PERIODS ARE TOO SHORT
4 AND NOT IN COMPLIANCE WITH THE *TRRO*. IS HE CORRECT?

5 A. No. What Mr. Denney does not say is that the FCC was speaking of the transition
6 for the *initial set* of wire centers. The one-year period outlined in the *TRRO* was to
7 begin upon the effective date of the *TRRO*, March 11, 2005. That transition period
8 has already expired as of March 11, 2006. The FCC did not make any statements
9 with regard to transition periods for *subsequent* wire centers. Moreover, it does not
10 follow that the transition for additions to the non-impaired wire center list should be
11 as long as for the initial transition. Further, subsequent transitions are likely to be for
12 only one or two wire centers at a time. Conversely, there will also be a much
13 smaller subset of services to convert. Accordingly, Qwest believes that the
14 transition periods it established are more than reasonable. Indeed, a number of
15 CLECs apparently agree, as they have signed Qwest's *TRO/TRRO* Amendment.⁴

16 Q. MR. DENNEY STATES ON PAGE 43 OF HIS TESTIMONY THAT, "QWEST
17 PROPOSES THAT ANY UNSUCCESSFUL DISPUTE RAISED BY CLECS
18 REGARDING CHANGES IN QWEST'S WIRE CENTER LIST BE SUBJECT TO
19 BACK BILLING TO THE TIME WHEN QWEST ADDED THE WIRE CENTER TO
20 THE LIST." IS HIS STATEMENT ACCURATE?

21 A. No. Qwest's precise proposal is that the effective date of an update to Qwest's list
22 of non-impaired wire centers should be 30 days following notice of an update to the
23 list. Back billing should be permitted from the effective date. Mr. Denney's
24 testimony continues by suggesting that Qwest will be motivated to submit insufficient

⁴ The Public Service Commission of Utah agreed with Qwest's position on this issue. See *In the Matter of the Investigation into Qwest Wire Center Data*, Docket No. 06-049-40, Report and Order, September 11, 2006 at page 33.

1 data to support additions to the non-impaired wire center list, if there is certainty as
2 to the effective date of an update. I have already stated that Qwest has every
3 motivation to provide sufficient data to support an update at the time notice is given,
4 in order to avoid disputes and to avoid the delay caused by disputes. At issue is the
5 incentive for the use of disputes to delay Qwest's ability to implement additions to
6 the list of non-impaired wire centers for the purpose of keeping UNE based pricing
7 longer than warranted. If Qwest does not have the ability to back bill when CLECs
8 use the dispute process, CLECs will be motivated to dispute an update, in order to
9 delay an addition to the list of non-impaired wire centers.

10 **Q. MR. FIMBRES RECOMMENDS THAT FUTURE UPDATES TO THE QWEST NON-**
11 **IMPAIRED WIRE CENTER LIST SHOULD BE DONE ONLY AS PART OF A**
12 **FORMAL PROCEEDING. PLEASE RESPOND.**

13 **A.** Qwest believes that a formal proceeding should only be necessary if there is an
14 objection to the addition of a wire center. If no party objects, then the formalities of
15 a proceeding, including 60 days for a comment period as recommended by Mr.
16 Fimbres, only serve as a delay. Given that the issues of interpreting the FCC's
17 *TRRO* order are to be resolved in the present proceeding, the only issues regarding
18 the addition of a wire center to the non-impaired list will be limited to the sufficiency
19 and accuracy of the data provided by Qwest in support of that addition. However, if
20 no one objects to Qwest's supporting data, then it should be possible for the
21 addition of a wire center to take effect by operation of law. As I stated in my direct
22 testimony, the FCC intended that the *TRRO* be self-effectuating. Adding formalities
23 to this process would not be consistent with the FCC's intent.

VI CONCLUSION

1

2 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

3 A. My testimony identifies several areas where Qwest and the Joint CLECs are in
4 agreement regarding the process for adding wire centers to the list of non-impaired
5 wire centers in the future. Qwest agrees with the Joint CLECs that there should be
6 a single, expedited proceeding before this Commission to resolve issues regarding
7 any disputed wire centers. My testimony also addresses and responds to those
8 additional requirements and administrative procedures that Mr. Denney proposes
9 that are unnecessary and that impose burdens upon Qwest that are of no significant
10 benefit to the parties. Finally, my testimony addresses the recommendations of
11 Commission Staff regarding blocking orders and procedures for adding wire centers
12 to the non-impaired list in the future.

13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A. Yes, it does.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF)
DIECA COMMUNICATIONS DBA COVAD)
COMMUNICATIONS COMPANY, ESCHELON)
TELECOM OF ARIZONA, INC., MCLEODUSA)
TELECOMMUNICATIONS SERVICES, INC.,)
MOUNTAIN TELECOMMUNICATIONS, INC.,)
XO COMMUNICATIONS SERVICES, INC. AND)
QWEST CORPORATION REQUEST FOR)
COMMISSION PROCESS TO ADDRESS KEY)
UNE ISSUES ARISING FROM TRIENNIAL)
REVIEW REMAND ORDER, INCLUDING)
APPROVAL OF QWEST WIRE CENTER LISTS.)

DOCKET NO. T-03632A-06-0091
T-03267A-06-0091
T-04302A-06-0091
T-03406A-06-0091
T-03432A-06-0091
T-01051B-06-0091

STATE OF COLORADO)
COUNTY OF DENVER)

AFFIDAVIT OF
RENEE ALBERSHEIM

SS

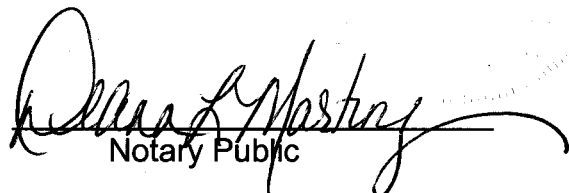
Renee Albersheim, of lawful age being first duly sworn, deposes and states:

1. My name is Renee Albersheim. I am a Staff Witnessing Representative – for Qwest Services Corporation in Denver, Colorado. I have caused to be filed written rebuttal testimony in Docket Nos. T-03632A-06-0091, T-03267A-06-0091, T-04302A-06-0091, T-03406A-06-0091, T-03432A-06-0091, T-01051B-06-0091.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.


Renée Albersheim

SUBSCRIBED AND SWORN to before me this 3 day of October, 2006.


Notary Public

My Commission Expires: 8/21/2010

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. T-03632A-06-0091
DIECA COMMUNICATIONS DBA COVAD)	T-03267A-06-0091
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APPROVAL OF QWEST WIRE CENTER LISTS)	

**REBUTTAL TESTIMONY
OF
DAVID L. TEITZEL**

QWEST CORPORATION

OCTOBER 6, 2006

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1

I. IDENTIFICATION OF WITNESS

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION**
3 **WITH QWEST CORPORATION.**

4 A. My name is David L. Teitzel. I am employed by Qwest Services
5 Corporation ("QSC"),¹ parent company of Qwest Corporation ("Qwest"), as
6 Staff Director-Public Policy. My business address is 1600 7th Ave.,
7 Seattle, Washington.

8 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?**

9 A. Yes. I filed direct testimony on June 23, 2006 in this proceeding.

10

II. PURPOSE OF TESTIMONY

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 A. The purpose of my rebuttal testimony is to address issues raised in the
13 response testimony of Mr. Douglas Denney, filed on behalf of the Joint
14 CLECs² on July 28, 2006, as well as the response testimony of Mr.
15 Armando Fimbres on behalf of the Arizona Corporation Commission
16 ("ACC") Staff, filed on September 22, 2006. In his testimony, Mr. Denney
17 argues that the Qwest business access line data presented in my direct
18 testimony should not be utilized to determine whether Qwest's Arizona

¹QSC performs support functions, such as regulatory support, for other Qwest entities.

²The "Joint CLECs" include Eschelon Telecom Inc., Covad Communications Corporation, Mountain Telecommunications and XO Communications Services, Inc.

1 wire centers are non-impaired for DS1/DS3 loops and transport. Instead,
2 Mr. Denney recommends that the Commission utilize the modified
3 business line analysis he has performed, which relies on a series of
4 assumptions that are plainly inconsistent with the FCC's *TRRO*
5 requirements. My rebuttal testimony demonstrates that:

6 (1) Mr. Denney's critique of Qwest's business line analysis is flawed
7 and ignores the requirements of the FCC's Triennial Review
8 Remand Order ("*TRRO*");

9 (2) Mr. Denney's analysis of Arizona business lines contains a
10 number of significant errors that renders it meaningless, and;

11 (3) Mr. Denney's analysis leads to incorrect conclusions regarding
12 wire center non-impairment in the McClintock and Tempe wire
13 centers.³

14 With respect to the proper counting of business access lines under the
15 requirements of the *TRRO*, Mr. Fimbres makes two specific
16 recommendations that do not agree with Qwest's position outlined in my
17 direct testimony:

18 1) Staff recommends that Qwest be required to utilize December
19 2004 ARMIS access line data in support of its initial non-impaired
20 wire center list, and;

³ Even under Mr. Denney's incorrect analysis, he identifies no other changes to the initial wire center non-impairment list that Qwest filed with the FCC.

1 2) Staff recommends that Qwest be required to utilize ARMIS
2 business line data in its non-impairment analysis "as reported to the
3 FCC, with no adjustments."

4 As I discuss, both of these recommendations are plainly contrary to the
5 requirements of the *TRRO* and the associated implementation rules.

6 My rebuttal testimony, along with the rebuttal testimonies of Ms.
7 Albersheim and Ms. Torrence, reinforces the fact that Qwest's *TRRO* data
8 is sound, and should be used as a basis for validation of the initial list of
9 non-impaired wire centers identified in this proceeding.

10 **III. VINTAGE OF LINE COUNT DATA**

11 **Q. MR. DENNEY COMPLAINS THAT *TRRO* BUSINESS LINE COUNTS**
12 **SHOULD NOT BE BASED ON "DATA COLLECTED OVER A YEAR**
13 **PRIOR TO THE EFFECTIVE DATE OF THE *TRRO*."⁴ PLEASE**
14 **COMMENT.**

15 **A. The FCC clearly meant for Regional Bell Operating Companies ("RBOCs")**
16 **to utilize access line data that was finalized and readily available on**
17 **February 4, 2005, when the FCC directed Qwest and the other RBOCs to**
18 **submit their lists of wire centers meeting the *TRRO*'s non-impairment**
19 **criteria. To illustrate, in paragraph 105 of its *TRRO*, the FCC stated:**

⁴ Response Testimony of Douglas Denney, p. 19.

1 Business line counts are an objective set of data **that**
2 **incumbent LECs already have created for other**
3 **regulatory purposes.** The BOC wire center data that we
4 analyze in this Order is based on ARMIS 43-08 business
5 lines, plus UNE-P, plus UNE-loops. (Emphasis added.)

6 Clearly, the FCC directed RBOCs to utilize official ARMIS data that had
7 already been created and finalized for inclusion in ARMIS Report 43-08.
8 The only Qwest ARMIS reports on file as of February 4, 2005 were the
9 reports based on December 2003 data. Qwest submits its access line
10 data to the FCC in April of each year for incorporation into the ARMIS
11 report, and as such, it submitted data for full year 2004 to the FCC in April
12 2005, nearly two full months after the FCC's February 4, 2005 order. It is
13 not reasonable to contend that the FCC's clear directions meant that the
14 FCC intended for RBOCs to use *incomplete and unofficial 2004 data*,
15 assuming it was even available at the time, to determine wire center non-
16 impairment. Simply stated, and contrary to Mr. Denney's assertion, full
17 year 2004 ARMIS access line data was not finalized and available in
18 February 2005, when Qwest was required by the FCC to complete its wire
19 center non-impairment analysis.

20 The fact that time has intervened between Qwest's initial wire center non-
21 impairment filing and today does not undermine the fact that the use of
22 December 2003 business line data is completely appropriate as a basis
23 for Qwest's initial list of non-impaired wire centers.

1 Q. DOES MR. FIMBRES ECHO MR. DENNEY'S RECOMMENDATION
2 THAT 2004 BUSINESS LINE DATA SHOULD BE USED TO VALIDATE
3 QWEST'S INITIAL NON-IMPAIRED WIRE CENTER LIST?

4 A. Yes. However, at page 5 of his testimony, Mr. Fimbres states:

5 Had the FCC intended to specify the December 2003 ARMIS
6 43-08 data, it easily could have stated so. Staff believes that
7 December 2003 was simply the most current, full-year
8 ARMIS information available to the FCC for analysis at the
9 time the TRRO was developed. If the December 2004
10 ARMIS data had been available, Staff believes that the FCC
11 would have used December 2004 information rather than
12 December 2003.

13 Mr. Fimbres is absolutely correct in his observation.⁵ When Qwest filed its
14 initial non-impaired wire center list with the FCC, December 2003 data
15 was the most current full-year ARMIS data available at that time.
16 Interestingly, also at page 5, Mr. Fimbres argues that the public interest in
17 this proceeding is best served by using "the most current information."
18 However, the "most current" ARMIS information available now is
19 December 2005 data--which was submitted to the FCC in April 2006--and
20 December 2005 data is obviously not relevant to the validation of Qwest's
21 initial non-impaired wire center list. As stated above, the entire essence of
22 the issue of access line data vintage in this docket centers on the question

⁵ Paragraph 105 of the *TRRO* clearly states the "business line counts are an objective set of data that incumbent LECs **have already created for other regulatory purposes.**" (Emphasis added.) This requirement plainly applies not only to the initial list of non-impaired wire centers originally submitted by the RBOCs, but to any such non-impairment list submitted at any time subsequent to the effective date of the *TRRO*. Since Qwest used "the most current, full-year ARMIS information available" in support of its initial filing, which was data "already created for other regulatory purposes," Qwest clearly met the FCC's requirement with respect to vintage of access line data.

1 of what the most current ARMIS data vintage was when Qwest submitted
2 its initial *TRRO* non-impaired wire center list to the FCC. The clear
3 answer to that question, which is framed in Mr. Fimbres' own testimony
4 cited above, is that December 2003 ARMIS data was the most current full
5 year access line data available at that time. If Qwest were, in October
6 2006, to propose non-impairment for additional Arizona wire centers not
7 on the initial list, it would use the "most current" ARMIS data available at
8 that time, which would be December 2005 data.

9 **Q. AT PAGE 4, MR. FIMBRES STATES THAT HE IS "AWARE OF AT**
10 **LEAST FOUR STATES WHICH ORDERED THE USE OF DECEMBER**
11 **2003 DATA, WHILE TWO HAVE ORDERED THE USE OF DECEMBER**
12 **2004 DATA." IS HIS PERCEPTION ACCURATE?**

13 **A.** No. In fact, two other Commissions within Qwest's region, Washington
14 and Utah, have recently issued rulings in *TRRO* proceedings that
15 December 2003 is the appropriate data vintage to support Qwest's initial
16 non-impairment wire center list. In addition, state Commissions in Texas,
17 Ohio, Illinois, California, Indiana and Rhode Island have thus far issued
18 rulings approving wire center non-impairment lists that were based on
19 December 2003 data. I will discuss these rulings in greater detail in my
20 following testimony.

1 Q. MR. DENNEY ALLEGES THAT THE FCC, IN THE *TRRO*,
2 SPECIFICALLY REFERS TO DECEMBER 2004 ARMIS DATA WHEN
3 ANALYZING THE ARMIS 43-08 BUSINESS LINES.⁶ PLEASE
4 COMMENT.

5 A. Mr. Denney claims that in footnote 303 (referenced in paragraph 105) of
6 the *TRRO*, the FCC "specifically refers to December 2004 ARMIS data."⁷
7 He cites this as an indicator that the FCC meant for the non-impairment
8 analysis to reflect December 2004 data.

9 In fact, Mr. Denney misrepresents the meaning of FCC's footnote.
10 Footnote 303 refers to the *FCC Report 43-08 Report Definitions* that were
11 to be used in the preparation of December 2004 ARMIS data. These
12 definitions do not contain actual 2004 ARMIS data as implied by Mr.
13 Denney, but simply provide instructions for the preparation of year end
14 2004 data that would be available in April 2005. Obviously, 2004 ARMIS
15 data was not available in December 2004, and therefore, "the BOC wire
16 center data that we (the FCC) analyze in this order" could not possibly be
17 based on 2004 ARMIS data—as implied by Mr. Denney.

18 Q. IS MR. DENNEY'S CLAIM THAT 2004 ARMIS DATA SHOULD BE
19 USED IN QWEST'S NON-IMPAIRMENT ANALYSIS INCONSISTENT
20 WITH OTHER RECOMMENDATIONS IN HIS TESTIMONY?

21 A. Yes. Mr. Denney claims that Qwest should have used 2004 business line
22 data in its February 2005 submission, under his errant belief that such

⁶ *Id.*, p. 19.

⁷ *Id.*, p. 19.

1 data must have been "readily ascertainable," even though 2004 ARMIS
2 data was not yet available. He states that there is "no reason to use stale
3 data collected many months earlier for such a critical determination."⁸

4 However, later in his testimony, in discussing the process for adding wire
5 centers to the non-impairment list, he states that "due to the FCC's
6 reliance on ARMIS data, updates based on line counts are appropriate
7 only when new ARMIS data is available, i.e., once per year."⁹ Thus, he
8 appears to acknowledge that switched business lines should be identified
9 based on the latest ARMIS data available, and that updated ARMIS data
10 is only released once per year. Yet, in his critique of Qwest's business
11 line identification methods, he claims that in February 2005, Qwest should
12 have used 2004 line data, even though 2004 ARMIS data was not yet
13 available. It is entirely inconsistent for Mr. Denney to acknowledge that
14 the most current ARMIS data should be used for Qwest's non-impairment
15 analysis for wire centers beyond those in the initial list in this proceeding,
16 while at the same time arguing that the 2003 ARMIS data—the most
17 recent available as of February 2005—should not be utilized because it is
18 somehow "stale." In fact, Qwest's use of 2003 ARMIS data is fully
19 consistent with Mr. Denney's recommended procedure for adding new
20 wire centers to the non-impaired list, based on the most current ARMIS
21 data available at the time such updates are proposed. In other words,
22 December 2003 data was the most current ARMIS data available when
23 Qwest finalized its initial list of non-impaired Arizona wire centers, and

⁸ *Id.*, p. 20.

⁹ *Id.*, p. 42.

1 Qwest commits that it will utilize the most current end-of-year official
2 ARMIS data available to support future non-impairment designations.

3 Q. HAVE ANY OTHER STATE COMMISSIONS FOUND THAT THE USE
4 OF DECEMBER 2003 ARMIS DATA IS APPROPRIATE?

5 A. Yes. Table 5 at page 39 of Mr. Denney's testimony provides his
6 interpretation of the determinations made by state Commissions on
7 various issues related to the definition of "business lines" per the terms of
8 the *TRRO*. His table demonstrates that thus far, only two state
9 Commissions—Michigan and North Carolina—have affirmatively required
10 RBOCs to use access line data other than December 2003 ARMIS data.
11 However, his table also alleges to show that AT&T was ordered in Ohio to
12 use December 2006 data, which is false. I presume that entry in his Table
13 5 is simply a typographical error by Mr. Denney, since the Ohio
14 Commission explicitly found, in fact, that December 2003 ARMIS data for
15 determining business line counts is appropriate. In its final order, the Ohio
16 Commission stated:

17 The Commission finds that, ***for the initial list of wire***
18 ***centers, the use of the most recent ARMIS data available***
19 ***at the time of designation, which in this case was the***
20 ***December 2003 ARMIS business line counts, is***
21 ***appropriate.*** The Commission agrees with AT&T Ohio that
22 requiring business line data and fiber-based collocater data
23 to be from the exact same time period would create an
24 unwarranted limitation on the frequency of AT&T Ohio's wire
25 center additions. While the 2004 ARMIS data is now
26 available, using it for the initial wire center impairment
27 determinations would be at odds with the way future wire
28 center impairment determinations will be made (i.e., using

1 the most recent data available at the time of the
2 designation).¹⁰ (Emphasis added).

3 The Ohio Commission's determination above echoes Qwest's
4 interpretation of the requirements of the FCC's *TRRO* as they apply in this
5 proceeding. Interestingly, Mr. Denney also cites to the Washington *TRRO*
6 order issued on April 20, 2006 in Docket UT-053025. This was the first
7 state Commission *TRRO* decision rendered in Qwest's 14-state region,
8 and Mr. Denney correctly reports that the Washington order found Qwest's
9 use of December 2003 ARMIS data to be in full compliance with the
10 requirements of the *TRRO*. The Washington order states:

11 It is reasonable for Verizon and Qwest to submit to the
12 Commission December 2003 ARMIS data to support the
13 designation of their initial list of "non-impaired" wire centers.
14 It was the most recent data on file with the FCC at the time it
15 entered the *TRRO*. The FCC used this data in establishing
16 the wire center tiers. Qwest and Verizon used this data in
17 filing their initial lists of non-impaired wire centers with the
18 FCC.¹¹

19 Thus, the Washington order found that Qwest's use of December 2003
20 ARMIS data was in full compliance with the requirements of the *TRRO*.
21 The finding was made despite the fact that the Joint CLECs argued in the
22 Washington proceeding, exactly as they have in this docket, that the use
23 of more current access line data should be required.

¹⁰ *Finding and Order: the Public Utilities Commission of Ohio*, Case No. 05-1393-TP-UNC (June 6, 2006), ("Ohio *TRRO* Order"), ¶ 22.

¹¹ *In the Matter of the Investigation Concerning the Status of Competition and Impact of the FCC's Triennial Review Remand Order on the Competitive Telecommunications Environment in Washington State*, Docket UT-053025, Order 3 (April 20, 2006) ("*Washington TRRO* Order"), at ¶ 23.

1 Finally, in his Table 5, Mr. Denney lists as a "decision date" two "staff
2 recommendations" in Utah and Colorado regarding the vintage of
3 business line data. This is incorrect. In fact, on September 11, 2006, the
4 Utah Commission issued its decision in Docket No. 06-049-40, in which it
5 stated:

6 Having considered the parties' arguments, we conclude it is
7 appropriate for Qwest to have used the December 2003 data
8 contained in its 2004 ARMIS 43-08 reports to compile its
9 initial wire center non-impairment list.¹²

10 In Colorado, the *TRRO* proceeding remains pending and there have not
11 been any decisions rendered there with respect to the data vintage issue,
12 and thus it is not appropriate for Mr. Denney to set forth a "decision date"
13 suggesting a final Commission decision against Qwest on this point
14 merely on the basis of a Staff recommendations in this still-open docket.

15 **Q. WAS DECEMBER 2003 ACCESS LINE DATA USED IN OTHER STATE**
16 **TRRO PROCEEDINGS?**

17 **A.** Yes. For example, AT&T Texas utilized December 2003 ARMIS 43-08
18 access line data in its non-impairment analysis, and the Texas
19 Commission found in its investigation that "AT&T Texas' determination,
20 counting, and reporting of business lines for its wire centers is consistent
21 with the FCC's directive at ¶ 105 of the *TRRO*."¹³

¹² *In the Matter of the Investigation Into Qwest Wire Center Data*, Docket No. 06-049-40, Report and Order (September 11, 2006), ("Utah *TRRO* Order"), at p. 14.

¹³ *Post-Interconnection Dispute Resolution Proceeding Regarding Wire Center UNE Declassification*, Texas PUC, Docket No. 31303, Order Approving Methodology to Determine AT&T Texas Wire Centers which are Non-Impaired (April 7, 2006), at p. 29.

1 In addition, while not listed in Mr. Denney's Table 5, the Illinois, California
2 and Indiana Commissions approved SBC's wire center *TRRO* non-
3 impairment lists, each of which were based upon *December 2003* access
4 line data. While these orders do not contain specific language that
5 explicitly endorses the December 2003 data vintage, the record expressly
6 shows that SBC used December 2003 data, and that none of the
7 Commissions rejected these data. Had these Commissions believed a
8 more current data vintage were required, they most certainly would have
9 ordered SBC to provide updated access line counts.

10 Table 5 also does not list Verizon states, where the procedural
11 mechanism for establishing wire center non-impairment was via tariff
12 filings (instead of fully contested dockets), and where the original lists of
13 non-impaired wire centers were also based on December 2003 business
14 line data. For example, in its filing to expand its original non-impaired wire
15 center list in Rhode Island, Verizon stated:

16 The original wire center list, which is being updated here,
17 was based principally on 2003 data, as amended in late
18 2004 to reflect terminated collocation arrangements.¹⁴

19 While these examples are not reflected in Mr. Denney's Table 5, they
20 represent additional instances where state Commissions have accepted
21 the use of December 2003 access line data in their *TRRO* wire center
22 non-impairment analyses.

¹⁴ Docket No. 3662 -- Verizon Rhode Island's Proposed Revision to PUC Tariff 18, January 13, 2006, fn. 4.

1 Q. MR. DENNEY SUGGESTS THAT QWEST SHOULD PROVIDE
2 DECEMBER 2004 LINE DATA, AND THAT THE COMMISSION
3 SHOULD REVIEW "BOTH THE 2004 DATA AND THE 2003 DATA" TO
4 SEE IF THEY "SUPPORT QWEST'S NON-IMPAIRMENT CLAIMS."¹⁵ IS
5 THIS WARRANTED?

6 A. No. December 2004 data is completely irrelevant to the non-impairment
7 determination for Arizona wire centers. Qwest is required to utilize the
8 most current data available when seeking to designate wire centers as
9 non-impaired. As demonstrated above, December 2003 ARMIS data was
10 the most recent data available when the FCC issued its *TRRO* order and
11 when Qwest filed its initial wire center non-impairment list with the FCC,
12 and must be used for the non-impairment analysis in this case. Mr.
13 Denney essentially recommends that the 2003 ARMIS business line count
14 data should be "verified" by comparing it with 2004 business line data.
15 Apparently, Mr. Denney would argue that if a wire center met the threshold
16 using 2003 data, but did not meet the threshold using 2004, data, that wire
17 center should be considered "impaired." This approach violates the FCC's
18 *TRRO* rules,¹⁶ which state that once a wire center is determined to be non-
19 impaired using the most current ARMIS access line data available when
20 the determination is made, it cannot subsequently be found to be
21 "impaired," even if the number of business lines drops below the non-
22 impairment threshold based on later (e.g., 2004) data. Conversely, this
23 docket is specifically about validation of Qwest's initial list of non-impaired
24 Arizona wire centers. If the 2004 data were to indicate that an additional

¹⁵ Response Testimony of Douglas Denney, p. 21.

¹⁶ 47 C.F.R § 51.319(a)(4), (5).

1 wire center, which was not on Qwest's initial list, qualifies for non-
2 impairment status by virtue of exceeding one of the FCC's *TRRO* access
3 line thresholds, it would not be appropriate for the Commission to include
4 that wire center in the initial list of validated non-impaired wire centers.
5 Such a finding should only be based on the most current ARMIS data on
6 file when Qwest requests a non-impairment designation for a particular
7 wire center, and the most current ARMIS data available when Qwest filed
8 its initial non-impairment list was December 2003 data.

9 Qwest is also required to utilize the *most current data available* when
10 seeking in the future to designate additional wire centers as non-impaired.
11 For example, Qwest would be required to utilize 2005 ARMIS data (the
12 most current ARMIS data available today) if it were to seek at any point
13 during the remainder of 2006 to designate, based on access line data, an
14 additional Arizona wire center as non-impaired for DS1/DS3 loops or
15 transport.

16 **Q. MR. DENNEY ARGUES THAT "QWEST SHOULD NOT BE ALLOWED**
17 **TO CHOOSE LINE COUNTS FROM THE PRESENT AND FIBER-**
18 **BASED COLLOCATORS FROM THE PAST"¹⁷ IN DETERMINING WIRE**
19 **CENTER NON-IMPAIRMENT. PLEASE COMMENT.**

20 **A.** Apparently, Mr. Denney believes that Qwest takes the position that it can
21 somehow "pick and choose" data vintages that best suit its purposes in
22 determining non-impairment. To the contrary, however, the FCC's
23 requirements concerning the use of ARMIS data require Qwest to use the

¹⁷ Response Testimony of Douglas Denney., p. 26.

1 most current access line data in its ARMIS 43-08 report when a non-
2 impairment designation is requested. Since the cycle for such ARMIS
3 reports require that data to be filed in April based on the previous year's
4 data, this requirement means that the business access line data used in
5 non-impairment determinations will necessarily always be year-end data,
6 and of an earlier vintage than fiber collocation data used in the analysis.
7 Since the FCC's order and associated rules regarding ARMIS do not apply
8 to fiber collocation data, RBOCs may rely on more current fiber collocation
9 data in determining Tier 1 and Tier 2 *TRRO* wire center designations.
10 There is absolutely nothing in the FCC's *TRRO* and associated rules that
11 requires the same vintage of access line and fiber collocation data to be
12 used in determining non-impairment.

13 As noted by the Ohio Commission:

14 The Commission agrees with AT&T Ohio that requiring
15 business line data and fiber-based collocator data to be from
16 the exact same time period would create an unwarranted
17 limitation on the frequency of AT&T Ohio's wire center
18 additions.¹⁸

¹⁸ *Ohio TRRO Order*, at p. 20.

1 **IV. MR. DENNEY'S ANALYSIS OF ICONN DATA**

2 **Q. PLEASE DESCRIBE MR. DENNEY'S ANALYSIS OF ICONN DATA.**

3 A. Mr. Denney provides an analysis of Qwest ICONN¹⁹ data in Table 3 of his
4 testimony, which he claims shows the "maximum business loops in
5 service" for each of the eight relevant Arizona wire centers. This data was
6 derived from two separate ICONN reports. First, Mr. Denney identified a
7 "loop" quantity from the ICONN report entitled "Loops in Service."
8 Second, Mr. Denney identified business and residential "network access
9 line" data from the ICONN "Central Office Find" report. Using this data,
10 Mr. Denney calculated "a proxy for the number of Qwest loops used to
11 serve business customers by subtracting residential lines from the total
12 number of loops in service."²⁰

13 **Q. BASED ON THIS DATA, WHAT DOES MR. DENNEY CONCLUDE?**

14 A. Mr. Denney claims that the publicly available "proxy" data from the Qwest
15 "ICONN" database supports the non-impairment classification for some,
16 but not all, of the wire centers on the initial non-impairment list.²¹ He
17 claims that this "maximum loop" data: (1) provides "some support" for Tier
18 1 status for the Phoenix North wire center and non-impairment for DS3

¹⁹ "ICONN" is an acronym for "Interconnection," and represents an informational database publicly available for use by Qwest's wholesale customers to obtain various information regarding Qwest's network in each of Qwest's 14 states. The ICONN database is not used as a source of data for any regulatory proceeding, and data derived from that resource is clearly not relevant nor admissible under the FCC's standards.

²⁰ Response Testimony of Douglas Denney, at p.22.

²¹ *Id.*, p.24.

1 loops there, and (2) indicates that the Phoenix Main, Thunderbird, Tempe
2 and Tucson Main wire centers should be classified as Tier 2 wire centers.
3 Based on this data, he concludes that the remaining three wire centers
4 "would be classified as Tier 3."

5 Mr. Denney states that the ICONN data "is the best available information
6 available to the Joint CLECs' [sic] to use to review Qwest's claims
7 regarding whether wire centers have actually met the 'non-impairment'
8 status as Qwest has claimed."²² In fact, however, the ICONN data is
9 fatally flawed in terms of its utility in estimating "business lines" in service
10 as defined by the FCC in its *TRRO*, as I will discuss in my following
11 testimony.

12 **Q. ARE YOU SURPRISED THAT MR. DENNEY ADVOCATES THE USE**
13 **OF ICONN DATA AS A MEANS OF VERIFICATION OF WIRE CENTER**
14 **NON-IMPAIRMENT STATUS?**

15 A. Yes. Prior to stating that the ICONN data represents the best available
16 means of verifying Qwest's non-impairment classifications, Mr. Denney
17 stated that actual "business line" data which comports with the FCC's
18 *TRRO* definitions should be used to determine non-impairment status:

19 **Q. SHOULD THE DATA DESCRIBED ABOVE (ICONN**
20 **DATA) BE USED TO DETERMINE THE "NON-**
21 **IMPAIRED" STATUS OF QWEST'S WIRE CENTERS IN**
22 **ARIZONA?**

23 A. Ideally Qwest would provide December 2004 data for
24 review. The data presented above demonstrates the

²² *Id.*, p.25.

1 importance of reviewing data contemporaneous with the
2 *TRRO*. The data shows significant doubts as to Qwest's
3 claims based on switched business line count data, but
4 final determinations should be based upon line counts
5 developed in response to the FCC's definition of
6 switched business lines consistent with the effective
7 date of the *TRRO*....Absent Qwest's actual data, this
8 data is the basis for the Joint CLECs' determination that
9 Qwest's wire centers have not met the "non-impaired"
10 status Qwest has claimed.²³

11 While Qwest continues to strongly maintain that December 2004 access
12 line data is not relevant to a finding of non-impairment for the initial list of
13 wire centers it filed with the FCC in compliance with the *TRRO*, Qwest did
14 provide December 2004 data on August 21, 2006 in response to the
15 Administrative Law Judge's ruling on the Joint CLECs' motion to compel
16 Qwest to provide such data. In each instance, use of 2004 data would
17 cause no change in the wire center non-impairment classifications that
18 Qwest identified based on the original December 2003 business line data.

19 **Q. NOTWITHSTANDING THE FACT THAT QWEST HAS PROVIDED THE**
20 **2004 BUSINESS LINE DATA SOUGHT BY THE JOINT CLECS, CAN**
21 **MR. DENNEY'S ICONN ANALYSIS BE USED TO DETERMINE IF A**
22 **WIRE CENTER IS NON-IMPAIRED?**

23 **A.** No. As I will demonstrate, Mr. Denney's analysis of business lines
24 misinterprets and misuses ICONN data, and clearly does not comport with
25 the FCC's *TRRO* business line definition.

²³ *Id.*, p.25.

1 Q. HOW HAS MR. DENNEY MISINTERPRETED AND MISUSED THE
2 ICONN DATA?

3 A. Mr. Denney's analysis appears to assume that a "loop" as defined in the
4 ICONN "Loops in Service" report is equivalent to an ARMIS Report 43-08
5 access line, and that subtracting "residential" lines (as reported in the
6 "Central Office Find" report) from the total loops will yield a count of
7 "business" lines. However, this is an entirely flawed assumption—
8 subtracting "residential access lines" from total "loops," as Mr. Denney has
9 done, does not provide a meaningful estimate of business lines as defined
10 by the FCC's *TRRO* rules.

11 First, a "loop" as identified in the ICONN "Loops in Service" report is not
12 equivalent to an "access line" as defined in ARMIS Report 43-08 or the
13 *TRRO*.²⁴ Unlike ARMIS Report 43-08 data, the loop counts in the ICONN
14 "loops in service" report specifically *exclude all high-capacity loops*, such
15 as ISDN-PRI loops or wholesale DS1 UNE loops. That is, DS1 high-
16 capacity loops are not counted as 24 voice-grade equivalents, 12 voice-
17 grade equivalents, or even one voice-grade equivalent—***DS1 loops (and***
18 ***DS3 loops) are not counted at all in the ICONN data.***

²⁴ A "loop" in the ICONN "Loops in Service" report is not even equivalent to a "network access line" as defined in ICONN "Central Office Find" database.

1 In its *TRRO* implementation rules at 47 CFR 51.5(3), the FCC specified
2 that:

3 business line tallies shall account for ISDN and other digital
4 access lines by counting each 64KBPS-equivalent as one
5 line. For example, a DS1 line corresponds to 24 64 kbps-
6 equivalents, and therefore to 24 business lines.²⁵

7 Thus, the ICONN "loop" data represents the wrong starting point for a
8 *TRRO* business line analysis, and its use is entirely contrary to the FCC's
9 directives in its *TRRO*.

10 Second, Mr. Denney identifies the residential access line count from the
11 ICONN "Central Office Find" report, and subtracts these lines from the
12 loops in the ICONN "Loops in Service" report, apparently under the
13 mistaken assumption that ICONN "loops" and "network access lines" are
14 equivalent. However, the residential access line quantities in the ICONN
15 "Central Office Find" report are based on ARMIS Report 43-08 data—but
16 do not include any wholesale UNE loops. Thus, Mr. Denney's calculation
17 subtracts ARMIS retail residential access lines (excluding wholesale
18 loops) from total retail and wholesale (UNE) loops (excluding all high-
19 capacity DS1 and DS3 loops). This is tantamount to subtracting apples
20 from spark plugs.

21 It is readily apparent that Mr. Denney's ICONN calculation yields a
22 business access line count that is significantly understated. This is

²⁵ Since the *TRRO* defines "business lines" as consisting of ARMIS 43-08 lines, UNE-P/QPP lines and UNE-L lines (which also incorporate EEL lines), this provision is clearly applicable to all retail and wholesale lines included in the "business line" counts.

1 especially so since the starting point (loops in service) excludes a
2 significant number of business lines (DS1 and DS3 retail and wholesale
3 loops) that must be included in the *TRRO* business line analysis.

4 **Q. CAN ANY MEANINGFUL CONCLUSIONS BE DRAWN FROM MR.**
5 **DENNEY'S ANALYSIS OF THE ICONN DATA FOR ARIZONA WIRE**
6 **CENTERS?**

7 A. No. Since the ICONN-based "loop" count does not include any DS1/DS3
8 or DS1/DS3 equivalents, as described above, Mr. Denney's calculation is
9 in misalignment with the FCC's *TRRO* rules. Had Mr. Denney strictly
10 followed the FCC's clear *TRRO* definitions, or at least used assumptions
11 conforming to the FCC's definitions, he most certainly would have arrived
12 at a far different result.

13 It is also noteworthy that this exclusion of all DS1 and DS3 loops is not
14 even consistent with Mr. Denney's advocacy elsewhere in his testimony.
15 Mr. Denney states that "Qwest's switched business line counts should be
16 counted consistent with ARMIS 43-08,"²⁶ which includes all *used* voice-
17 grade equivalent channels for each DS1. Yet his ICONN-based business
18 line calculations exclude all of these used DS1 and DS3 channels.

19 **Q. WHAT DO YOU CONCLUDE ABOUT THIS ISSUE?**

20 A. The Commission should completely dismiss Mr. Denney's ICONN-based
21 analysis since it drastically understates switched business lines as defined
22 by the FCC in the *TRRO*, and is based on a vintage (2006 "loops in

²⁶ *Id.*, p. 27

1 service" and 2005 "NAL" data) that is not even relevant to this docket. In
2 view of the flaws discussed above regarding Mr. Denney's use of ICONN
3 data, the Commission should flatly disregard the Joint CLECs' notion that
4 ICONN data is a "reasonable proxy" for *TRRO* "business line" counts.

5 **V. CONSISTENCY WITH ARMIS 43-08 LINE DATA**

6 **Q. MR. DENNEY COMPLAINS THAT "QWEST STARTED WITH ITS**
7 **ARMIS DATA, BUT *MANIPULATED* THIS DATA IN A MANNER**
8 **INCONSISTENT WITH THE *TRRO*." (EMPHASIS ADDED.)²⁷ IS HE**
9 **CORRECT?**

10 **A.** No. Mr. Denney acknowledges that paragraph 105 of the *TRRO* requires
11 Qwest to include "ARMIS 43-08 data, plus business UNE-P, plus UNE
12 loops." However, he then ignores the FCC's associated implementation
13 rules at 47 CFR § 51.5, which define a business line as follows:

14 A ***business line*** is an incumbent LEC-owned switched
15 access line used to serve a business customer, whether by
16 the incumbent LEC itself or by a competitive LEC that leases
17 the line from the incumbent LEC. (Emphasis added.)

18 In 47 CFR § 51.5(3), the FCC continues:

19 Among these requirements, ***business line*** tallies shall
20 account for ISDN and other digital access lines by counting
21 each 64 kbps-equivalent as one line. For example, a DS1
22 line corresponds to 24 64-kbps equivalents, and therefore to
23 24 ***business lines***. (Emphasis added.)

²⁷*Id.*, p. 27.

1 The FCC rules clearly state that a "business line" is defined as lines used
2 by either LECs or CLECs to serve customers. Subsection 3 specifically
3 states that "business lines," which include, by the FCC's definition, *both*
4 wholesale and retail high-capacity digital lines, are to be adjusted to reflect
5 the corresponding 64-kbps equivalent (DS0-channels) line capacity of
6 these services. The rule specifically states that a DS1 corresponds to 24
7 64-kbps equivalents.

8 Further, it is noteworthy that ARMIS 43-08 access line data already counts
9 actual digital channels in service (e.g., an ISDN Primary Rate customer
10 using 16 of the available 24 channels would be reported as 16 "business
11 lines" to ARMIS). Had the FCC intended that only "active channels" be
12 counted, subsection 3 of the FCC's *TRRO* implementation rule (requiring
13 a DS1 loop to be counted as 24 64- kbps equivalent business lines) would
14 not have been necessary. Instead, the FCC would have ruled that the
15 ILEC should only count "active channels," or channels "in use." The FCC
16 did not do so, however, and expressly ruled that a digital (DS1 and DS3)
17 loop should be counted by its total capacity--24 business lines for a DS1
18 loop and 672 business lines (24 DS1s * 28) for a DS3 loop.

19 In short, the FCC's rule plainly states that each 64-kbps channel
20 equivalent in a DS1 facility should be counted as one line. Qwest
21 expressly complied with this rule by counting the full capacity of lines
22 associated with digital business services in Arizona wire centers. There
23 was no "manipulation" of data as claimed by Mr. Denney.

1 Q. WHAT IS MR. FIMBRES' POSITION, ON BEHALF OF THE
2 COMMISSION STAFF, WITH REGARD TO ADJUSTMENT OF ARMIS
3 DATA IN DETERMINING ACCESS LINE COUNTS CONSISTENT WITH
4 THE TERMS OF THE *TRRO*?

5 A. Mr. Fimbres agrees with Mr. Denney that ARMIS data should not be
6 adjusted in this process, even though the adjustment is in compliance with
7 the FCC's mandates. At page 6, he states:

8 Staff's review of the ARMIS 43-08 instructions and the
9 *TRRO* leads it to believe that the use of ARMIS 43-08 data
10 exactly as reported is consistent with the *TRRO*
11 requirements.

12 However, Mr. Fimbres neglected to acknowledge that at least some
13 adjustments to the ARMIS 43-08 data are required to meet the FCC's
14 definitions. For example, ARMIS 43-08 data is reported to the FCC at the
15 statewide level, not at the "wire center" level. To comply with the FCC's
16 "access line" definitions, therefore, the RBOCs must necessarily adjust the
17 ARMIS 43-08 data filed with the FCC to develop wire center-level access
18 line counts. Additionally, as shown at page 3 of my direct testimony in this
19 docket, the FCC's *TRRO* implementation rules mandate that the number
20 of business lines in a wire center include all switched business lines
21 served by that wire center, and that ISDN and other digital access lines
22 (when using DS1 facilities) should be counted as "24 64 kbps-equivalents,
23 and therefore to 24 business lines." The FCC's definition of "business
24 lines" clearly encompasses both wholesale and retail services served by a
25 particular wire center, and its clear language requires digital facilities in
26 that wire center to be calculated at full "64 kbps-equivalent" capacity.

1 Finally, the language of the *TRRO* does not state that ARMIS 43-08 data
2 must be used without adjustment. Rather, paragraph 105 of the *TRRO*
3 states:

4 The BOC wire center data that we analyze in this Order is
5 **based on** ARMIS 43-08 business lines, plus UNE-P, plus
6 UNE-Loops." (Emphasis added.)

7 In other words, the FCC merely requires ARMIS 43-08 data to be used as
8 a starting point in the analysis, but also requires that same data to be
9 adjusted to reflect full 64-kbps capacity of digital services included in the
10 business line counts in a particular wire center.

11 **Q. DOES MR. DENNEY ACKNOWLEDGE THAT SOME STATE**
12 **COMMISSIONS HAVE ORDERED ADJUSTMENTS TO ARMIS 43-08**
13 **DATA CONSISTENT WITH QWEST'S DATA IN THIS DOCKET?**

14 **A.** Yes. Mr. Denney's Table 5 shows that at least three other state
15 Commissions—in Florida, Georgia and South Carolina—have concluded
16 that adjusting the ARMIS data to reflect the full capacity of digital facilities
17 fully complies with the *TRRO*.²⁸

²⁸ Table 5 of Mr. Denney's testimony notes that other Commissions have approved a business line count methodology that includes unadjusted "as is" ARMIS line counts. In the Verizon and AT&T (SBC) states, Commissions have generally approved the use of unadjusted ARMIS 43-08 data as filed by Verizon and AT&T (SBC). Regarding the business line data filed by AT&T (SBC) in Texas, Mr. Denney is correct that the data filed by AT&T (SBC) included unadjusted ARMIS 43-08 data. However, the Texas Commission's order, as quoted in my direct testimony, describes and approves a methodology that may be interpreted as considering a DS1 line to be counted 24 business lines, an approach that "applies to UNE lines and non-UNE lines."

1 **Q. MR. DENNEY, AT PAGE 30, SUGGESTS THAT REGULATORS IN**
2 **BOTH UTAH AND COLORADO HAVE RECOMMENDED AGAINST**
3 **ADJUSTING ARMIS DIGITAL DS1 AND DS3 LINES TO REFLECT**
4 **FULL DS0 CAPACITY OF THOSE SERVICES. WOULD YOU**
5 **COMMENT?**

6 **A.** Yes. Mr. Denney's testimony on this point is misleading. In fact, the
7 *TRRO* dockets that he references in these two states are not yet final. In
8 Colorado, the Commission has yet to render a final order in its *TRRO*
9 docket. In Utah, the period to pursue reconsideration has not yet expired
10 and the Commission's *TRRO* order cannot yet be considered final. As the
11 state Commissions of Florida, Georgia and South Carolina have already
12 found, and as discussed earlier in my testimony, the *TRRO* specifically
13 requires both wholesale and retail digital services to be counted in terms
14 of full DS0 channel capacity.

15 **Q. MR. DENNEY SUPPORTS THE USE OF UNADJUSTED ARMIS 43-08**
16 **DATA FOR QWEST RETAIL BUSINESS LINE COUNTS. IS THIS**
17 **CONSISTENT WITH HIS ICONN-BASED ANALYSIS DESCRIBED**
18 **EARLIER IN YOUR TESTIMONY?**

19 **A.** No. As noted earlier, Mr. Denney supports the use of ARMIS 43-08 data,
20 which includes the 64-kbps equivalents *utilized* in each DS1 facility. For
21 example, in Mr. Denney's view, if 16 of the 24 channels in a DS1 (e.g.,
22 ISDN-PRI) are utilized, this would count as 16 business lines. However, in
23 Mr. Denney's ICONN-based calculation, such a DS1 would not be counted
24 at all, as demonstrated earlier in my testimony. Thus, Mr. Denney's
25 testimony appears to be internally inconsistent on this point.

1 **VI. TREATMENT OF CLEC BUSINESS LINES (UNE-L)**

2 **Q. ACCORDING TO THE TRRO, WHAT TYPES OF CLEC BUSINESS**
3 **LINES SHOULD BE INCLUDED IN THE "BUSINESS LINE" COUNTS?**

4 **A. As I described in my direct testimony, the FCC's TRRO implementation**
5 **rules at 47 CFR § 51.5 state as follows:**

6 The number of business lines in a wire center shall equal the
7 sum of all incumbent LEC business switched access lines,
8 **plus the sum of all UNE loops connected to that wire**
9 **center,** including UNE loops provisioned in combination with
10 other unbundled elements. (Emphasis added.)

11 This rule clearly requires ILECs to include "**all** UNE loops" connected to a
12 wire center in the count of business lines used to determine non-
13 impairment in that wire center. The FCC does not define a subset of UNE
14 loops that should be excluded. In fact, if the FCC had intended the
15 exclusion of specific types of UNE loops (e.g., UNE loops used by CLECs
16 to serve residential customers or to provide non-switched services), it
17 most certainly would have said so in its rules. The FCC did not say so,
18 however, in either the *TRRO* or the associated implementation rules.
19 Consistent with the FCC's requirements, Qwest has included all UNE
20 loops in its *TRRO* business line counts.

21 **Q. DOES MR. DENNEY ARGUE THAT QWEST'S INCLUSION OF ALL**
22 **UNE LOOPS IN ITS TRRO LINE COUNTS IS IN ERROR?**

23 **A. Yes. Mr. Denney complains that Qwest has included some residential and**
24 **non-switched UNE-L lines in its switched business access lines, and that**

1 this is somehow in violation of the "clear language of the FCC's
2 definition."²⁹

3 **Q. DOES QWEST'S PROCEDURE FOR COUNTING ACCESS LINES**
4 **REPRESENT A VIOLATION OF THE FCC'S BUSINESS LINE**
5 **DEFINITION?**

6 **A.** No. In fact, it is Mr. Denney's advocacy that violates the "clear language
7 of the FCC's definition." On page 26 of his testimony, despite the FCC's
8 clear and unambiguous language that business line counts should include
9 "the sum of all UNE loops connected to that wire center," he argues that
10 the FCC really did not mean what it so clearly stated.

11 This is the same sort of misinterpretation of a very clear FCC rule that
12 CLECs have made in many other *TRRO* proceedings--and that has been
13 subsequently rejected by nearly all Commissions that have addressed the
14 issue. Indeed, Mr. Denney's own Table 5 on page 39 of his testimony
15 shows that 13 of the 15 state Commission orders that he cites agree with
16 Qwest and other RBOCs that the UNE loop counts used to determine wire
17 center non-impairment should not exclude UNE loops that may be used to
18 serve residential customers. In addition, Mr. Denney's Table 5 shows that
19 no state Commission³⁰ has found that *non-switched* UNE loops should be
20 excluded from the count of business lines to determine wire center non-
21 impairment under the terms of the *TRRO*.

²⁹ Response Testimony of Douglas Denney., p.31.

³⁰ Mr. Denney references a Staff recommendation in the Colorado *TRRO* proceeding to exclude non-switched UNE loops. However, that docket remains in progress and there has not been any Commission decision rendered to date.

1 On pages 15 through 20 of my direct testimony, I presented quotations
2 from numerous state Commission orders that explain the proper manner
3 in which business lines should be counted to comply the FCC's rules,
4 which orders are directly contrary to Mr. Denney's arguments in this
5 docket. While I will not repeat each of those quotes here, I believe the
6 Georgia Commission's order does a particularly good job of refuting a
7 recurring CLEC argument similar to that of Mr. Denney's:

8 The first sentence includes in the definition of "business line"
9 that it serve a "business customer." However, the next
10 sentence of the line instructs on the manner in which such
11 lines shall be calculated. In setting forth what shall be
12 included in the calculation, the rule modifies the sum of all
13 incumbent LEC switched access lines with the word
14 "business." There is no confusion that this part of the
15 addition is limited to business lines. Yet, in the same
16 sentence, when discussing the sum of all UNE loops
17 connected to that wire center, the rule does not similarly use
18 the modifier "business." If, because of the prior sentence, it
19 would have been duplicative to state that these were
20 business UNE loops, as CompSouth suggests, then the
21 switched access lines need not have been identified as
22 business in the first part of the sentence. That the switched
23 access lines were expressly limited to business lines, and
24 the UNE loops were not so limited, indicates that the
25 limitation does not apply to the UNE loops. In the discussion
26 of business line counts in the *TRRO*, the FCC again refers to
27 "business UNE-P, plus UNE-loops." (§ 105) This conclusion
28 is consistent with the policy goals expressed by the FCC.
29 That the FCC states it intended to measure business
30 "opportunities" in a wire center provides support for why its

1 method to calculate business lines would potentially include
2 non-business lines.³¹

3 **Q. HAS THE WASHINGTON COMMISSION RECENTLY RULED THAT ALL**
4 **UNE LOOPS MUST BE INCLUDED IN THE TRRO BUSINESS LINE**
5 **COUNTS?**

6 **A.** Yes. The Washington Commission order is very clear that all UNE loops
7 must be included in the TRRO business line analysis:

8 The FCC did not qualify the UNE loops it included as
9 business UNE loops or non-switched UNE loops, but *all*
10 UNE loops. Further, in its definition of business lines, the
11 FCC provided: "The number of business lines in a wire
12 center shall equal the sum of all incumbent LEC *business*
13 switched access lines, plus the sum of *all UNE loops*
14 connected to that wire center, including UNE loops
15 provisioned in combination with other unbundled elements."
16 **All UNE loops should be included in the business line**
17 **calculation.**³² (Emphasis added.)

18 **Q. DOES PARAGRAPH 105 OF THE TRRO MAKE IT CLEAR THAT ALL**
19 **UNE LOOPS MUST BE INCLUDED IN THE LINE COUNTS?**

20 **A.** Yes. Interestingly, Mr. Denney has not referred to paragraph 105 of the
21 TRRO in his discussion of UNE loops. This is likely because this
22 paragraph makes it abundantly clear that the FCC intends the business
23 line count to include all UNE loops. In this paragraph, the FCC states that
24 "[t]he BOC wire center data that we analyze in this Order is based on

³¹ *Generic Proceeding to Examine Issues Related to BellSouth Telecommunications, Inc's. Obligations to Provide Unbundled Network Elements*, Ga. PSC, Docket No. 19341-U (February 7, 2006) ("Georgia TRRO Order"), at pp. 19-20.

³² *Washington TRRO Order*, ¶ 44.

1 ARMIS 43-08 business lines, plus business UNE-P, *plus UNE-loops.*"
2 (Emphasis added.) The FCC specifically did not analyze only *business*
3 UNE-loops.

4 The FCC also stated in paragraph 105 of the *TRRO* that "business line
5 counts are an objective set of data that incumbent LECs **have already**
6 **created for other regulatory purposes,**" and that "by basing our
7 definition in an ARMIS filing required of incumbent LECs, and adding **UNE**
8 **figures, which must also be reported,** we can be confident in the
9 accuracy of the thresholds, and a simplified ability to obtain the necessary
10 information." (Emphasis added.) As Qwest has made clear, it does not
11 have any means to determine whether a UNE loop is used by a CLEC to
12 serve a business customer or a residential customer, and has no means
13 to identify whether a UNE loop is used by a CLEC to provide non-switched
14 services. In fact, Mr. Denney readily admits that data for residential UNE
15 loops "is difficult to obtain."³³ Thus, residential and non-switched UNE
16 loop data are *not* "*already created for other regulatory purposes,*" and in
17 fact, are not available to Qwest at all, absent each CLEC that uses UNE
18 loops divulging this highly confidential data via an extraordinarily
19 cumbersome discovery process. In addition, the "*UNE figures, which must*
20 *also be reported,*" include only the total number of UNE loops—residential
21 and business loops, along with non-switched loops, are not separately
22 reported. It is clear that seeking to separately identify residential,
23 business and non-switched UNE loops would directly violate the FCC's
24 *TRRO* business line methodology.

³³ Response Testimony of Douglas Denney., p.37.

1 As the Indiana Commission noted:

2 Moreover, when the FCC conducted a sample run of how to
3 compute "business lines" in a wire center in paragraph 105
4 of the *TRRO*, it used all UNE loops in the wire center, with
5 no exclusions. One reason for this was that the FCC wanted
6 to establish a simple, objective test that relied on data the
7 ILECs already have and which could be easily verified.³⁴

8 In sum, the Commission should reject Mr. Denney's recommended
9 exclusion of residential and non-switched UNE loops. In fact, at page 35,
10 Mr. Denney goes so far as to classify Qwest's inclusion of all UNE loops
11 as an "error," and proceeds to recalculate business line counts without this
12 "error"—in the face of his own Table 5, which shows that nearly all state
13 Commissions have found this methodology is not an error, but rather, is in
14 strict compliance with the FCC's requirements. The FCC *TRRO*
15 methodology unambiguously requires the inclusion of all UNE loops in the
16 business line counts for each wire center.

³⁴ *In the Matter of the Indiana Utility Regulatory Commission's Investigation of Issues Related to the Implementation of the Federal Communication Commission's Triennial Review Remand Order and the Remaining Portions of the Triennial Review Order*, Ind. URC, Cause No. 42857, Issue 3 (January 11, 2006), at p. 16. (Footnotes omitted.)

1 **VII. MR. DENNEY'S "ADJUSTMENTS" TO QWEST'S ACCESS LINE DATA**

2 **Q. MR. DENNEY INTRODUCES A SERIES OF "ADJUSTMENTS" TO**
3 **QWEST'S BUSINESS LINE DATA IN HIS HIGHLY-CONFIDENTIAL**
4 **TABLE 4. ARE HIS "ADJUSTMENTS" PROPER?**

5 A. No. In each instance, Mr. Denney's "adjustments" to Qwest's data conflict
6 with the requirements of the *TRRO*. It is Mr. Denney who attempts to
7 "manipulate" the data in contravention to the FCC's clear requirements
8 regarding *TRRO* "business line" definitions.

9 **Q. WHAT "ADJUSTMENTS" TO QWEST'S ACCESS LINE DATA DOES**
10 **MR. DENNEY PROPOSE?**

11 A. Mr. Denney proposes: (1) a "43-08 Adjustment" that purports to use actual
12 ARMIS data; (2) an "adjustment" to reduce the UNE-L line count to
13 remove what Mr. Denney believes to be UNE loops used to serve non-
14 switched customers, (3) an "adjustment" purported to remove "non-
15 switched lines from the DS0 loop counts, and (4) an "adjustment" to
16 approximate the number of in-service DS0 channels on DS1 and DS3
17 UNE-P services.³⁵

³⁵ Mr. Denney also recommends that UNE-L lines being used to serve residential customers should be removed from the "business line" totals. However, he does not conduct such a calculation in his testimony. Rather, he suggests that the Commission order Qwest to remove such lines—even though Qwest has no means of identifying how CLECs are utilizing UNE-L lines.

1

A. Mr. Denney's "43-08" Adjustment

2 **Q. PLEASE DESCRIBE MR. DENNEY'S "43-08 ADJUSTMENT."**

3 A. In his "43-08 Adjustment," Mr. Denney seeks to adjust the Qwest business
4 line data by including only the "used" channels for Qwest high-capacity
5 services (e.g., ISDN-PRI). In order to make this adjustment, Mr. Denney
6 utilizes data provided by Qwest in response to the Joint CLEC data
7 request No. 01-043.

8 **Q. IS THIS ADJUSTMENT APPROPRIATE?**

9 A. No. As discussed earlier in my testimony, the FCC's *TRRO* rules (47 CFR
10 § 51.5) clearly state that ILECs should count "each 64 kbps-equivalent as
11 one line," and that "a DS1 line corresponds to 24 64 kbps-equivalents, and
12 therefore 24 'business lines.'" Therefore, Mr. Denney's adjustment—to
13 include only the voice channels "actually used" for each high-capacity
14 service—is plainly contrary to the requirements of the *TRRO*.

15 **Q. EVEN IF MR. DENNEY'S ADJUSTMENT WERE JUSTIFIED, IS THERE**
16 **AN ADDITIONAL PROBLEM WITH HIS CALCULATION?**

17 A. Yes. Even if Mr. Denney were correct in attempting to count only actual
18 "in service" digital business channels in his count of switched business
19 lines, the value he elected to use does not capture actual digital business
20 channels in service associated with the relevant wire center.

1 **Q. WHY IS THIS THE CASE?**

2 A. In many instances, an ISDN-Primary Rate ("ISDN-PRI") customer, such as
3 an Internet Service Provider ("ISP"), will order services originating in one
4 wire center, while the actual ISDN 64-kbps channel terminations
5 associated with the service are located in a different wire center, with the
6 two locations linked by DS1 interoffice transport. In this application, there
7 is no loop: the interoffice transport facility simply terminates in the wire
8 center other than the wire center in which the ISDN-PRI service is
9 provided.

10 For example, an ISP located in the Phoenix Main wire center could order
11 ISDN-PRI service out of the Phoenix Main wire center to serve customers
12 located in the Phoenix North wire center. In this example, the active
13 *digital channels* (up to 24) associated with the ISDN-Primary Rate service
14 would be tracked by Qwest's systems as being in the Phoenix *North* wire
15 center, even though the ISDN-PRI DS1 *facility* is provided to the ISP in the
16 Phoenix *Main* wire center, and is tracked as such. Since Qwest and other
17 RBOCs file the ARMIS 43-08 data with the FCC on a *statewide* basis, and
18 not on a "wire center" basis, this internal tracking issue would not affect
19 the actual "in service" digital business channel count at the statewide
20 level. However, at the wire center level, this may cause a mismatch of the
21 ISDN-PRI service "facility" and the associated "in service DS0 channels."
22 In my example, the DS1 facility associated with the ISDN-PRI service
23 would be tracked in the Phoenix Main wire center, while the individual
24 active digital DS0 channels would be included in the Phoenix North wire
25 center business line counts, even though there are *no loops served by the*

1 *Phoenix North wire center* for this customer. Mr. Denney's adjustment
2 methodology would count all of the actual digital channels in the Phoenix
3 North wire center, even though they should be counted in the Phoenix
4 Main wire center (the wire center where the switch providing the service is
5 located).

6 **Q. HOW COULD THIS PROBLEM BE RESOLVED?**

7 A. A more appropriate way to quantify "in service" digital business channels
8 in a wire center (assuming Mr. Denney's "adjustment" were to comport
9 with the *TRRO*, which it does not) would be to apply the statewide ratio of
10 in-service digital business channels to the number of DS1 or DS3 digital
11 business switched facilities in the relevant wire center. This ratio would
12 ensure that "in-service" digital business service DS0 channels were
13 properly attributed to the "home" wire center.

14 **B. Mr. Denney's Removal of Non-switched UNE-L lines**

15 **Q. DOES MR. DENNEY ATTEMPT TO REMOVE NON-SWITCHED UNE**
16 **LINES?**

17 A. Yes. Mr. Denney states that "carriers such as Covad do not sell circuit
18 switched services,"³⁶ and thus that these loops should be removed from
19 the UNE loop counts. While Mr. Denney attempts to remove some non-
20 switched UNE loops, he does so based on a rough "switched voice line"
21 factor that Eschelon apparently believes, from its own experience (but

³⁶ Response Testimony of Douglas Denney, p. 36.

1 without any other basis), likely applies to all other CLECs who use DS1 or
2 DS3 services to provide switched retail services.

3 **Q. IS MR. DENNEY'S REMOVAL OF NON-SWITCHED LOOPS**
4 **APPROPRIATE?**

5 A. No. As demonstrated earlier in my testimony, the FCC's *TRRO* rules
6 clearly state that *all* UNE loops must be included in the switched business
7 services line counts. Not one state Commission that has considered
8 *TRRO* wire center data has accepted such an adjustment, as Mr.
9 Denney's Table 5 shows. Further, even if such an adjustment were
10 appropriate (which it is not), Mr. Denney has not provided any tangible
11 support for his count of non-switched UNE-L lines.

12 **Q. WHAT IS STAFF'S POSITION WITH RESPECT TO INCLUSION OF**
13 **NON-SWITCHED LOOPS IN THE BUSINESS LINE COUNT IN THIS**
14 **PROCEEDING?**

15 A. As stated at pages 7 and 8 of his testimony, Mr. Fimbres, on behalf of
16 Staff, concurs with Qwest that non-switched loops and EELs (as well as
17 UNE loops potentially used to serve residential subscribers) must be
18 included in the count of "business lines" in a wire center.

1 **C. Mr. Denney's UNE-P "Used Capacity" Adjustment**

2 **Q. DOES MR. DENNEY "ADJUST" QWEST'S COUNT OF UNE-P LOOPS**
3 **TO ESTIMATE THE "USED CAPACITY" OF THE DS1 AND DS3 UNE-P**
4 **LINES INCLUDED IN THE COUNT?**

5 **A.** Yes. Mr. Denney has attempted to calculate the number of "used" digital
6 channels for DS1/DS3 UNE-P lines in each wire center. He states,
7 without showing his calculations, that he "applied a factor to the Hi-Cap
8 UNE-P lines in order to approximate the amount of switched capacity on
9 these lines."³⁷

10 **Q. IS THIS ADJUSTMENT APPROPRIATE?**

11 **A.** No. Mr. Denney's calculation is directly contrary to the requirements of 47
12 CFR § 51.5(3) that each 64-kbps channel in a high-capacity digital line
13 should be counted as a separate business line, and that "a DS1 line
14 corresponds to 24 64 kbps equivalents, and therefore to 24 business
15 lines." As Mr. Denney's own Table 5 illustrates, only the North Carolina
16 Commission has found that active "High Cap CLEC Loop" in-service
17 channels should be counted, while all of the other state Commission
18 orders he cited specify that all channels in a digital UNE loop should be
19 counted, whether or not all channels are actually "in service."

³⁷ *Id.*, p. 36.

D. The Impact of Mr. Denney's Adjustments

1

2 **Q. IF MR. DENNEY'S ADJUSTMENTS WERE APPROPRIATE (WHICH**
3 **THEY ARE NOT), WHAT IMPACT WOULD THESE ADJUSTMENTS**
4 **HAVE ON THE QWEST TRRO DATA?**

5 **A.** Even based on the data in Mr. Denney's Highly-Confidential Table 4, his
6 adjustments would cause only two changes in the Arizona wire center
7 non-impairment designations: the Tempe wire center would be removed
8 from the non-impaired list with respect to DS3 loops, and the McClintock
9 wire center would be reclassified as a Tier 2 (rather than a Tier 1) wire
10 center. All other wire center designations would remain unchanged from
11 those shown in Qwest's initial non-impairment list.

12 However, the assumptions on which Mr. Denney bases his calculations
13 are contrary to the clear and unambiguous directives of the FCC, as well
14 as to the findings of most other state Commissions that have addressed
15 these issues. The data that Qwest has submitted is fully consistent with
16 the TRRO and the FCC's associated rules, and thus the Commission
17 should rule as such and therefore find that Qwest's non-impairment
18 designations for the initial list of wire centers filed with the FCC are
19 appropriate.

1 **VIII. PROCESS FOR UPDATES TO WIRE CENTER LIST**

2 **Q. DO YOU ADDRESS EACH OF MR. DENNEY'S RECOMMENDATIONS**
3 **REGARDING THE PROCESS FOR MAKING FUTURE UPDATES TO**
4 **THE WIRE CENTER LIST?**

5 **A.** No. Ms. Albersheim addresses the bulk of Mr. Denney's testimony
6 regarding the process for updating Qwest's non-impaired wire center list.
7 However, there is one issue Ms. Albersheim addresses that I would like to
8 expand on, regarding updates to line counts.

9 **Q. MR. DENNEY STATES THAT "CLECS SHOULD BE INFORMED WHEN**
10 **A WIRE CENTER IS WITHIN 5,000 LINES, OR WITHIN 1 FIBER**
11 **COLLOCATOR, OF CHANGING DESIGNATION."**³⁸ **IS THIS**
12 **REASONABLE?**

13 **A.** No. It is not reasonable, practical or useful for Qwest to inform CLECs
14 when a wire center is within 5,000 lines of changing its non-impairment
15 designation. First, as Ms. Albersheim states, this is a reporting burden
16 that was not contemplated in the FCC's *TRRO*, and there is no reason to
17 add this administrative burden upon Qwest.

18 Second, the business line counts are based on ARMIS data. As I
19 discussed above, ARMIS data is updated once a year, and the results are
20 released each April. Qwest does not maintain updated "ARMIS 43-08
21 reports" throughout the year. Thus, any update to show that a wire center

³⁸ Response Testimony of Douglas Denney, p.42.

1 was within 5,000 lines of non-impairment status would only occur once a
2 year, and would be of questionable value to a CLEC in any event. Third,
3 even if Qwest were to notify CLECs that a particular wire center was within
4 5,000 lines of non-impaired status, there is no assurance that the wire
5 center would ever reach that threshold. Indeed, in some wire centers,
6 Qwest is losing significant numbers of lines, and this trend may continue
7 as intermodal competition (e.g., wireless, VoIP) increases.³⁹

8 If a CLEC were to take some action (e.g., making a multi-million dollar
9 investment in placement of network cable) based on such advance
10 notice,⁴⁰ and then were to learn the following year that the *TRRO*
11 "business lines" in the particular wire center did not increase to meet the
12 threshold, the CLEC would have made a poor business decision to invest
13 significant capital in the wire center (to its investors' detriment) when low-
14 cost UNEs continue to be available for the foreseeable future. In such a
15 case, Qwest would have gone to extra work and expense to provide the
16 "advance notice," and the CLECs would then have taken unwarranted
17 (and costly) action based upon such advance notice.

³⁹ It is important to note that Qwest business line loss to intermodal competitors causes its *TRRO* "business line" counts to decrease, especially since lines served by cable MSOs, VoIP providers, wireless carriers and carriers utilizing their own loop/distribution networks are not included in the *TRRO* "business line" definition. In effect, competition could be robustly increasing in a wire center, but the reported business line counts could show a decline due to the presence of these forms of competition.

⁴⁰ In the recent Utah *TRRO* hearing, Mr. Denney suggested that CLECs may decide to invest in a buildout of bypass loop facilities in wire centers approaching non-impairment access line thresholds.

IX. CONCLUSION AND RECOMMENDATION

Q. WHAT ACTION SHOULD THE COMMISSION TAKE IN THIS PROCEEDING?

A. The Commission should reject each of Mr. Denney's adjustments to the Qwest *TRRO* business line data. These adjustments are contrary to the clear requirements of the *TRRO*. In addition, the Commission should reject Staff's recommendations regarding the use of 2004 ARMIS data on an unadjusted basis.

Instead, the Commission should find that the business line data that I have presented in Highly-Confidential Exhibit DLT-1, along with the fiber collocation data that Ms. Torrence presents, support the following non-impairment determinations:

- The Phoenix Main, Phoenix North and Tempe wire centers meet the non-impairment standard for DS3 unbundled loops;
- Seven Arizona wire centers—Phoenix East, Phoenix Main, Phoenix Northeast, Phoenix North, Thunderbird, Tempe and McClintock—meet the FCC's interoffice transport threshold for "Tier 1" non-impairment status; and
- Three Arizona wire centers—Mesa, Scottsdale Main and Tucson Main—meet the FCC's interoffice transport threshold for "Tier 2" non-impairment status.

- 1 Q. **DOES THIS CONCLUDE YOUR TESTIMONY?**
- 2 A. Yes, it does.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF
DIECA COMMUNICATIONS DBA COVAD
COMMUNICATIONS COMPANY, ESCHELON
TELECOM OF ARIZONA, INC., MCLEODUSA
TELECOMMUNICATIONS SERVICES, INC.,
MOUNTAIN TELECOMMUNICATIONS, INC.,
XO COMMUNICATIONS SERVICES, INC. AND
QWEST CORPORATION REQUEST FOR
COMMISSION PROCESS TO ADDRESS KEY
UNE ISSUES ARISING FROM TRIENNIAL
REVIEW REMAND ORDER, INCLUDING
APPROVAL OF QWEST WIRE CENTER LISTS.

DOCKET NO. T-03632A-06-0091
T-03267A-06-0091
T-04302A-06-0091
T-03406A-06-0091
T-03432A-06-0091
T-01051B-06-0091

STATE OF WASHINGTON
COUNTY OF KING

AFFIDAVIT OF
DAVID L. TEITZEL

SS


David L. Teitzel, of lawful age being first duly sworn, deposes and states:

1. My name is David L. Teitzel. I am a Staff Director – Public Policy for Qwest Services Corporation in Seattle, Washington. I have caused to be filed written rebuttal testimony in Docket Nos. T-03632A-06-0091, T-03267A-06-0091, T-04302A-06-0091, T-03406A-06-0091, T-03432A-06-0091, T-01051B-06-0091.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.


David L. Teitzel

SUBSCRIBED AND SWORN to before me this 29th day of September, 2006.


Notary Public
MAUREA E. PETERSON

My Commission Expires: 2/14/10
Residing At: Tacoma, WA.



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. T-03632A-06-0091
DIECA COMMUNICATIONS DBA COVAD)	T-03267A-06-0091
COMMUNICATIONS COMPANY, ESCHELON)	T-04302A-06-0091
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TELECOMMUNICATIONS SERVICES, INC.,)	T-03432A-06-0091
MOUNTAIN TELECOMMUNICATIONS, INC.,)	T-01051B-06-0091
XO COMMUNICATIONS SERVICES, INC. AND)	
QWEST CORPORATION REQUEST FOR)	
COMMISSION PROCESS TO ADDRESS KEY)	
UNE ISSUES ARISING FROM TRIENNIAL)	
REVIEW REMAND ORDER, INCLUDING)	
APPROVAL OF QWEST WIRE CENTER LISTS)	

REBUTTAL TESTIMONY

OF

RACHEL TORRENCE

ON BEHALF OF

QWEST CORPORATION

PUBLIC VERSION

OCTOBER 6, 2006

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EXHIBITS

Highly Confidential Exhibit RT-8	SBC/AT&T Letter to Qwest
Exhibit RT-9	WC Docket No. 05-065/183, Appendix F

1 **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH**
3 **QWEST CORPORATION.**

4 A. My name is Rachel Torrence. My business address is 700 W. Mineral Ave.,
5 Littleton, Colorado. I am employed as a Director within the Network Policy Group
6 of Qwest Services Corporation. I am testifying on behalf of Qwest Corporation
7 and its affiliates ("Qwest").

8 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?**

9 A. Yes, I filed direct testimony in this docket on June 23, 2006.

10 **II. PURPOSE OF REBUTTAL TESTIMONY**

11 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

12 A. The purpose of my rebuttal testimony is to respond to the direct testimony of Mr.
13 Douglas Denney, who filed on behalf the Joint CLECs and the responsive
14 testimony of Mr. Armando Fimbres, who filed on behalf of the Staff of the Arizona
15 Corporation Commission.

16 In his testimony on behalf of the Joint CLECs, Mr. Denney criticizes the process
17 by which Qwest determined the number of fiber-based collocators for purposes
18 of determining which Qwest wire centers are "non-impaired" pursuant to the
19 FCC's rules implementing that order. Mr. Denney challenges the results of the
20 process by which Qwest determined the number of fiber-based collocators. My
21 rebuttal testimony addresses concerns expressed by the Joint CLECs about this

1 process and discusses the flaws in the statements and conclusions that Mr.
2 Denney presents. My testimony also shows that not only is Qwest's process
3 sound, but Qwest's implementation of the process is objective and
4 comprehensive and produces reliable and accurate results.

5 My testimony also corrects two inaccuracies in Mr. Fimbres' testimony that arise
6 from and apparent misunderstanding of my direct testimony and Mr. Denney's
7 direct testimony. As I discuss below, the clarification of these inaccuracies
8 further validates the appropriateness of Qwest's process.

9 **III. QWEST'S PROCESS IS SOUND AND OBJECTIVELY APPLIED**

10 **Q. PLEASE COMMENT ON THE JOINT CLECS' PROCESS FOR DETERMINING**
11 **WIRE CENTER TIER DESIGNATIONS.**

12 A. Surprisingly, Mr. Denney's and the Joint CLECs' process for determining wire
13 center tier designation relies substantially on evidence that Qwest has provided
14 and the processes Qwest utilized. In fact, Mr. Denney allocates a substantial
15 portion of his testimony addressing fiber-based collocation (at pages 9 and 10 of
16 testimony) cataloging the evidence that Qwest submitted in support of its fiber-
17 based collocation count, and he concludes by acknowledging (at page 10, Line
18 11 of his testimony) that:

19 In most situations the Joint CLECs have been able to confirm
20 Qwest's wire center designations that relied on fiber-based
21 collocation.

22 In essence, the Joint CLECs have apparently followed Qwest's process and used
23 the very evidence that Qwest presented as the basis for their determinations and

1 their final conclusions. However, having used Qwest's valid evidence, the Joint
2 CLECs have arrived at very different and flawed conclusions. Furthermore,
3 beyond Mr. Denney's testimony about having confirmed Qwest's data and his
4 vague references to information in the Joint CLECs' possession, the Joint CLECs
5 have not provided any meaningful evidence independent of Qwest's regarding
6 the number of fiber-based collocators in any wire center in Arizona. In fact, the
7 majority of the exhibits attached to Mr. Denney's testimony, are documents
8 produced by Qwest.

9 **Q. PLEASE ADDRESS THE JOINT CLECS' CONCERNS AND CONCLUSIONS**
10 **REGARDING QWEST'S PROCESSES FOR OBTAINING DATA AND THE**
11 **VALIDITY OF THAT DATA.**

12 **A.** The Joint CLECs appear to make selective use of the evidence that Qwest is
13 presenting, while choosing to ignore those portions of Qwest's evidence that do
14 not comply with their position. That is, Mr. Denney's testimony contains
15 mischaracterizations of certain events, and unfortunately, those
16 mischaracterizations become the basis for flawed conclusions. I will address
17 each of these issues separately and in further detail throughout this testimony.

18 **Q. PLEASE ADDRESS ON MR. DENNEY'S TESTIMONY REGARDING CLEC**
19 **RESPONSES TO QWEST'S MARCH 29, 2005 LETTER REQUESTING**
20 **CONFIRMATION ON THEIR STATUS AS FIBER-BASED COLLOCATORS.**

21 **A.** At page 10, beginning at line 15 of his testimony, Mr. Denney mischaracterizes
22 the CLEC responses to Qwest's March 29, 2005 letter, and in one instance,
23 ignores the actual evidence. Contrary to Mr. Denney's testimony that only two
24 carriers affirmed their status as fiber-based collocators, Qwest has submitted

1 evidence that it received validation from four of the six carriers. Two carriers
2 explicitly confirmed their collocations in Arizona, and the other two carriers
3 responded with additions or corrections to their collocation information for states
4 other than Arizona, without making any changes to the Arizona information. The
5 absence of any changes by these two carriers to their Arizona collocation
6 information implicitly validates the accuracy of that information, since the carriers
7 provided changes for the other states that they concluded were necessary.
8 Given those changes, the carriers clearly would have presented changes to the
9 Arizona data if they had concerns about the accuracy of those data. It strains
10 credibility to think these carriers would ignore problems in Arizona data while
11 specifically addressing and proposing changes to information for other states.

12 Further, Mr. Denney claims that one carrier responded by stating that the letter
13 had simply gone to the wrong person. This is true. However, Mr. Denney does
14 not mention the carrier's response to the subsequent letter that Qwest sent to the
15 then-identified proper parties that clarified the status of affiliates and acquisitions
16 (which was also requested as part of Qwest's original March 29, 2005 letter),
17 leaving the mistaken impression that Qwest did not attempt any further contact
18 with this particular carrier. (See the pdf file which is shown as an attachment on
19 page 2 of Highly-Confidential Attachment A to Highly-Confidential Exhibit RT-3 of
20 my direct testimony.) While this carrier's response did not confirm the status of
21 the fiber-based collocations as identified by Qwest, it also did not challenge the
22 status of those collocations. This particular carrier's lack of a challenge is
23 particularly significant given that this carrier has not been hesitant about
24 asserting its perceived rights in regulatory and litigation proceedings. Even so,
25 Qwest looked to other evidence to corroborate the designation of these

1 collocations as being fiber-based before it included this particular carrier on the
2 list.

3 Additionally, Mr. Denney attempts to take Qwest to task for counting the
4 collocations of a carrier that specifically instructed Qwest not to count its
5 collocations, along with those of the non-responding carriers. However, the Joint
6 CLECs' justification of this position is seriously flawed in that it essentially ignores
7 vital circumstances that significantly affect Qwest's ability to obtain the required
8 data. Qwest did all it could have reasonably done to validate the existence of
9 fiber-based collocators in a wire center. Although these collocators are in Qwest
10 wire centers, Qwest does not have first-hand information as to how a collocator is
11 using its space. This is particularly so if that collocator is not purchasing services
12 from Qwest, as would be the case with most fiber-based collocators. However,
13 in such cases, Qwest does not need to have first-hand knowledge of such
14 collocations. It is only logical, therefore, to assume, as the FCC directed, that a
15 carrier *is* a fiber-based collocator as defined in the *TRRO* if: (1) a carrier is
16 occupying a collocation space, (2) it is being billed, and is paying, for that space
17 as well as for power to that space, (3) it has fiber facilities entering and
18 terminating in that space, and (4) those fiber facilities leave the central office and
19 do not connect with Qwest's network. Obviously, since Qwest cannot access
20 those carriers' networks to verify each of these facts, it is only the carriers
21 themselves that are in a position to definitively affirm their network architectures
22 and their status as fiber-based collocators. Notably, numerous carriers have
23 affirmed their status as fiber-based collocators. Others, however, have chosen
24 not to respond, and still others have affirmed their use of a fiber network within a
25 collocation, but have questioned the FCC's definition of a fiber-based collocator.

1 **Q. IS IT APPROPRIATE FOR QWEST TO COUNT A CLEC AS A FIBER-BASED**
2 **COLLOCATOR EVEN IF IT DID NOT AFFIRMATIVELY RESPOND TO**
3 **QWEST'S LETTER REQUESTING VALIDATION?**

4 A. Absolutely, particularly if Qwest has other data that substantiate the designation
5 of a given carrier as fiber-based. Mr. Denney (at page 11 of his testimony) takes
6 issue with the fact that Qwest counted carriers as fiber-based collocators in the
7 absence of the carriers' affirmative response to Qwest's March 29, 2005 letter to
8 CLECs seeking validation of the existence of their fiber-based collocations. Mr.
9 Denney, however, fails to take into account the fact that Qwest has no control
10 over a CLEC's decision whether to validate the collocation, or to refuse to
11 provide the pertinent information and that some CLECs may have concluded it
12 was not in their best interests to cooperate and thus failed to respond to Qwest's
13 request for validation. Qwest made good faith attempts to secure validation from
14 the carriers that it has identified, based on its own internal information and
15 records, as fiber-based collocators, but perhaps not too surprisingly, it met with
16 resistance from some CLECs.¹ Thus, Qwest relied on validation that was
17 provided by some carriers, and, when validation was not forthcoming, it
18 necessarily was compelled to rely on other means, such as its inventory systems,
19 billing systems, and physical field verifications. This process was thorough and
20 comprehensive, and it resulted in the best data that could reasonably be
21 obtained under the circumstances. These data provide accurate results.

22 Finally, given the lack of any clear regulatory obligation for a carrier to declare
23 itself as a fiber-based collocator, there could be a strong incentive for some

¹ While on the stand at the hearing for Utah Docket 06-049-40, dealing with the same *TRRO* wire center issues being address in the docket, Mr. Denney himself admitted that the Joint CLECs had also encountered resistance to their inquiries.

1 CLECs to attempt to "game the system" by not responding to such requests for
2 confirmation. Accordingly, a final count of fiber-based collocators based solely,
3 or at least substantially, on a definitive confirmation by each CLEC, as Mr.
4 Denney seems to suggest, would not make any sense and thus this Commission
5 should reject such suggestions.

6 And, at the risk of sounding repetitive, it must be noted that the data that Qwest
7 gathered in response to its March 29, 2005 letter to the CLECs were merely one
8 aspect of the evidence that Qwest presented in support of its list of fiber-based
9 collocators.

10 **Q. PLEASE RESPOND TO MR. FIMBRES' POSITION REGARDING THE**
11 **RESPONSES BY CLECS TO QWEST'S LETTER REQUESTING**
12 **VALIDATION?**

13 **A.** While Mr. Fimbres' concern seems to primarily revolve more around the
14 timeframe given to the CLECs to respond to Qwest's inquiry, rather than whether
15 the CLECs were responsive or not, it is critical to reiterate Qwest's position. Mr.
16 Fimbres (at page 10 of his response testimony) erroneously states his belief that
17 Qwest "automatically" classified collocators as fiber-based in the absence of an
18 affirmative response. As stated in my previous response, a CLEC collocation
19 was not automatically classified as fiber-based simply because the CLEC failed
20 to response to Qwest's letter requesting validation. Rather, CLECs were counted
21 as fiber-based collocators only when other data or physical substantiation existed
22 for them and could be verified by Qwest.

23 Regarding the timeframe allotted for CLECs to respond, given the rather short
24 timeframes, Qwest and the CLECs had to do the best they could within the time

1 allotted. Notably, many CLECs responded to Qwest's request during the
2 requested two week period, while others simply chose not to respond.
3 Furthermore, it must not be overlooked that Qwest was reviewing **all** CLEC
4 collocation data within the very same timeframes; an exponentially greater task.
5 Nevertheless, going forward, the scope of any requests for validation will be
6 much narrower and a two week timeframe is not unreasonable. Finally, the
7 Commission should not lose sight of the fact that it may be in some CLECs'
8 interests to delay the process as long as possible.

9 **Q. WERE QWEST'S PHYSICAL FIELD VERIFICATIONS OF FIBER-BASED**
10 **COLLOCATORS CONDUCTED IN AN OBJECTIVE MANNER?**

11 A. Absolutely. Mr. Denney seems to accuse Qwest (at pages 11 and 12 of his
12 testimony) of attempting to come to predetermined outcomes when he states that
13 Qwest was "encouraging its employees to error on the side of finding fiber-based
14 collocations." He then proceeds to quote from an introductory passage, which he
15 takes out of context, from the instruction letter that Qwest sent to its
16 interconnection managers, as some sort proof that Qwest was trying to influence
17 the outcome. However, if one reads the instruction letter in its entirety, it
18 becomes abundantly clear that a brief explanation as to why Qwest field
19 personnel were being asked to perform a task outside of their day-to-day
20 functions was entirely appropriate.² In addition, these Qwest personnel were
21 given specific instructions regarding what data to validate. I believe Mr.
22 Denney's apparent accusations that Qwest employees were "encouraged to
23 error" are inappropriately inflammatory and insulting, and, at a minimum, they are

² It has been my experience that if employees are given a clear understanding regarding why they are being asked to complete a given task, especially one that is not part of their usual day-to-day responsibilities, they tend to perform better and produce a better product.

1 simply wrong. Confidential Exhibit RT-5, attached to my direct testimony, is a
2 copy of the letter in question.

3 **Q. HAVE OTHER STATE COMMISSIONS ACCEPTED QWEST'S PROCESS FOR**
4 **COUNTING FIBER-BASED COLLOCATORS?**

5 A. Yes. The Utah Public Service Commission's decision in the *TRRO* wire center
6 docket accepted the process Qwest used in counting fiber-based collocations
7 within its Utah wire centers. This is the same process used by Qwest in counting
8 fiber-based collocations within its Arizona wire centers

9 **IV. QWEST'S PROCESS YIELDS AN ACCURATE RESULT.**

10 **Q. PLEASE RESPOND TO MR. DENNEY'S CLAIMS REGARDING THE**
11 **ACCURACY OF QWEST'S CONCLUSIONS.**

12 A. The Joint CLECs unfairly and mistakenly criticize the process that Qwest used to
13 compile its data and erroneously question the accuracy of Qwest's list of wire
14 centers. In his testimony, Mr. Denney takes issue with Qwest's use of the
15 collocation verification worksheets, as well as with the overall accuracy of
16 Qwest's filings with the FCC. However, his testimony on this subject is
17 misleading, and certainly does not present an accurate view of the situation. For
18 the most part, his challenges pertain to anomalous situations in *other* states that
19 have no relevance to the list of fiber-based collocators in Arizona. Finally, the
20 only Arizona state-specific challenge is not a challenge to the designation of
21 collocations as fiber-based but rather, is simply nothing more than an
22 interpretation of an FCC order *other than the TRRO* in an effort to impose
23 inappropriate modifications to the non-impaired wire center list.

1 **Q. PLEASE RESPOND IN GENERAL TO MR. DENNEY'S CRITICISM OF**
2 **QWEST'S COLLOCATION VERIFICATION PROCESS.**

3 A. The process Qwest used to physically validate the existence of fiber-based
4 collocators is sound and yields an accurate result. As previously stated, the Joint
5 CLECs apparently relied on Qwest evidence in formulating their positions. They
6 present no independent evidence, but rather, merely restate and criticize Qwest's
7 processes and evidence as needed to support their positions. On the other
8 hand, Qwest's efforts to ascertain an accurate count of existing fiber-based
9 collocators are extensively documented in the worksheets that were provided in
10 Highly-Confidential Exhibit RT-4 attached to my direct testimony. These
11 documents definitively demonstrate that Qwest took the FCC's specific criteria
12 and literally applied them in a process that yielded a comprehensive and
13 accurate accounting of fiber-based collocators in its Arizona wire centers.

14 **Q. IS MR. FIMBRES' IN ERROR REGARDING THE VERIFICATION OF POWER?**

15 A. Yes. Mr. Fimbres points to the testimony of Mr. Denney, at page 13, where he
16 erroneously states: "Qwest counted carriers as fiber-based collocators, without
17 explanation, even though it appears Qwest was unable to verify the carriers had
18 power at the BDFB [Battery Distribution Fuse Board]." Once again, the Joint
19 CLECs stray from the FCC's definition of a fiber-based collocator when they
20 mistakenly take issue with Qwest's counts. It is true that the purpose of the
21 (verification) spreadsheet was to verify aspects of the collocation. The
22 spreadsheet was used to document criteria set forth by the FCC: existing
23 collocation arrangement, active power, the existence of fiber facilities, both
24 terminating and exiting the wire center. However, and of particular note, the
25 spreadsheets also contain information that the *TRRO* does **not require** as

1 necessary in defining a fiber-based collocation. This information was simply
2 additional data that Qwest collected as further substantiation of the fiber-based
3 designation, such as the type of fiber (i.e., express fiber), cross-connect
4 information and verification of connections at the Battery Distribution Fuse Board
5 (the BDFB on the worksheet). Mr. Denney's testimony seems to imply that the
6 absence of this particular information, specifically the verification of connection at
7 the BDFB, somehow must mean that Qwest's verification failed. This is certainly
8 not the case. If one looks at the spreadsheets, in all instances, power was
9 visually verified at the collocation, whether or not it was traced back to the BDFB.
10 That meant that the equipment in the collocation was "on" and operational. The
11 fact that a technician could not complete a physical trace of a single cable
12 through the office racking to the BDFB does not mean that the collocation was
13 not actively powered. Therefore, Qwest did not err in this step. Qwest verified
14 the existence of active power to all the fiber-based collocations it counted in its
15 Arizona wire centers.

16 **Q. PLEASE RESPOND TO THE JOINT CLECS' CRITICISM OF QWEST'S FIELD**
17 **VERIFICATION CONDUCTED IN ITS ARIZONA WIRE CENTERS.**

18 A. Interestingly enough, most of the Joint CLECs criticism of Qwest's field
19 verification process has nothing to do with Arizona wire centers.

20 For example, Mr. Denney cites an instance in Colorado where Qwest, before its
21 field verification³ and before the March 29, 2005 letter requesting validation was

³ Mr. Denney mistakenly calls Qwest's initial research effort a "field verification." As stated in my direct testimony, the initial list was comprised of research data, system data, and limited field verifications as time permitted. In many instances, field verifications were not conducted and Qwest relied on equipment inventory records and collocation order data. Mr. Denney's claim (at page 12, line 9) that the initial field verification found fiber where none existed is inaccurate and misleading.

1 sent to the CLECs, initially designated a particular collocation as fiber-based.
2 Upon review of the subsequent physical field verifications, and the information
3 provided by responding CLECs, Qwest correctly re-designated the collocation as
4 non-fiber-based. As stated in my direct testimony, Qwest instituted its validation
5 process and sent the validation letters out because it recognized that
6 modifications to the initial February 2005 fiber-based collocators list might need to
7 be made, and it was committed to producing an accurate and comprehensive list
8 of fiber-based collocators. The fact that changes resulted, such as the one cited
9 in Colorado, is actually a testament to the effectiveness of Qwest's efforts at
10 validation and the accuracy and comprehensiveness of the final data. These
11 changes certainly do not reflect negatively on Qwest's processes or the accuracy
12 of its Arizona wire center data. In essence, any changes to the number of fiber-
13 based collocators in Colorado are simply not relevant in this proceeding.
14 Curiously, Mr. Denney does not mention that Qwest's validation process resulted
15 in corrections to one carrier's collocations in two Arizona wire centers (see
16 Highly-Confidential Exhibit RT-3 and Highly-Confidential Attachment A to Exhibit
17 RT-3, attached to my direct testimony).

18 Moreover, Mr. Denney and the Joint CLECs challenge Qwest's interpretation of
19 TRRO language dealing with fiber-based collocators using CLEC-to-CLEC
20 connections even while admitting that Qwest "did not count any CLEC-to-CLEC

1 connections in Arizona" (at page 13, lines 7-8 of his testimony).⁴ He cites an
2 anomalous and singular instance, also in Colorado, brought about by very
3 unusual circumstances, and fails to relate its relevance to Arizona beyond the
4 disingenuous statement that hypothetically it "could play a role in the future."
5 The Joint CLECs are apparently attempting to codify a method for restricting the
6 ability of RBOCs to identify future wire centers, and thus are likely to increase
7 there use of CLEC-to-CLEC connections to fiber, knowing full well that they will
8 not be counted for purposes of non impairment. A decision on this matter without
9 any real situation in Arizona to discuss would be premature and could unduly
10 disadvantage Qwest. CLEC-to-CLEC connections are simply not relevant to the
11 list of fiber-based collocators in Arizona wire centers, nor the list of unimpaired
12 Arizona wire centers that Qwest is asking this Commission to approve.

13 Additionally, Mr. Denney cites an example of a dispute in Minnesota, where
14 Qwest and Eschelon, Mr. Denney's current employer, are in disagreement over
15 whether its collocations meet the definition of fiber-based. Despite his
16 protestations, an active power supply was indeed in place to the two collocations
17 in question. Rather, the dispute there revolves around what Eschelon was doing
18 with that power.⁵ The fact that active power to each collocation is physically

⁴ Qwest believes that certain CLEC-to-CLEC connections do indeed satisfy the TRRO's definition of a fiber-based collocator. They (1) terminate in a collocation within the wire center with an active power supply, (2) leave the incumbent LEC wire center premises, and (3) the fiber is owned by a party other than the incumbent LEC (in the instance cited in Colorado, the fiber is provided by a party other than Qwest). In the Colorado TRRO proceeding, Qwest was not actively investigating CLEC-to-CLEC connections since it would require substantial investigation to ascertain the existence of architectures that are put in place without Qwest's involvement and since Qwest was working on an expedited timetable. However, research showed that Qwest assisted a carrier in converting to a CLEC-to-CLEC connection and that it satisfied the FCC criteria for a fiber-based collocator.

⁵ At page 12, line 15, of his direct testimony, Mr. Denney states only that "Eschelon did not have power *connected to its equipment*" (emphasis added), and not that Eschelon did not have active power to the collocation.

1 confirmed, and that fiber is confirmed as terminating in a collocation and leaving
2 the office would affirm the collocations as fiber-based in accordance with the
3 FCC definition. However, this is, again, an issue specific to Minnesota, which will
4 be addressed in proceedings in Minnesota and thus is of no relevance to the list
5 of fiber-based collocators in Arizona.

6 In short, the Joint CLECs' challenges to Qwest's data are best handled in the
7 states where they occur. Given the wire center-specific data that this
8 Commission must evaluate, Qwest believes that this Commission should only
9 consider issues specific to the fiber-based collocations in Arizona wire centers.

10 **Q. DOES MR. DENNEY CHALLENGE ANY ARIZONA-SPECIFIC FIBER-BASED**
11 **COLLOCATION DATA?**

12 **A.** Mr. Denney's only challenge to Arizona-specific data was in the Phoenix East
13 wire center. However, it was not a challenge to the designation of certain
14 collocations as fiber-based, but rather, merely a dispute regarding the impact of
15 conditions set forth by the FCC in a subsequent unrelated order.

16 **[***BEGIN HIGHLY-CONFIDENTIAL]**

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***** END HIGHLY-CONFIDENTIAL *****

1 **V. NOTICE TO CLECS WHEN A WIRE CENTER IS WITHIN ONE**
2 **FIBER COLLOCATOR OF CHANGING DESIGNATION IS**
3 **UNNECESSARY**

4 **Q. PLEASE RESPOND TO THE JOINT CLECS' PROPOSED REQUIREMENT (AT**
5 **PAGE 41 OF MR. DENNEY'S TESTIMONY) THAT CLECS SHOULD RECEIVE**
6 **NOTIFICATION WHEN A WIRE CENTER IS WITHING ONE FIBER**
7 **COLLOCATOR OF CHANGING ITS TIER DESIGNATION.**

8 A. As Ms. Albershiem stated in her rebuttal testimony, this proposed requirement is
9 administratively burdensome, particularly in light of the fact that the threshold is
10 not practically meaningful. This is especially so since one additional collocator
11 does not necessarily indicate an imminent change in the impairment
12 classification. Moreover, advance notification may also facilitate the ability of a
13 CLEC to take "creative advantage" of the situation by changing its business plans
14 and network architectures to make it less likely that a wire center ever reaches a
15 given threshold or, at the very least, to delay the inevitable.

16 **Q. DOES THE TRRO CONTAIN A REQUIREMENT FOR ADVANCE**
17 **NOTIFICATION BY AN ILEC AS WIRE CENTERS APPROACH A**
18 **THRESHOLD?**

19 A. No. It is apparent that the FCC did not contemplate any such notification, since
20 the TRRO does not contain any such requirement. Further, I am not aware of
21 any state commission requiring such advance notice.

1 **Q. HOW MIGHT A CLEC TAKE CREATIVE ADVANTAGE OF A WIRE CENTER**
2 **BEING WITHIN ONE FIBER-BASED COLLOCATOR OF CHANGING ITS TIER**
3 **DESIGNATION?**

4 A. It is certainly conceivable that if a wire center were within one fiber-based
5 collocator of a change in impairment status, a CLEC could purposely choose to
6 utilize alternative network architectures in the near term, such as certain CLEC to
7 CLEC connections, rather than establish a fiber-based collocation that would
8 potentially increase their transport or loop costs. Moreover, given that all Tier 2
9 wire centers are already, by definition, within one fiber-based collocator of
10 changing tier designation, I question the value of such an unprecedented
11 requirement. As stated, I believe this would be an unprecedented step that, to
12 my knowledge, no state commission has required of any ILEC.

13 **Q. WHAT UNDUE ADMINISTRATIVE BURDEN WOULD AN ADVANCE**
14 **NOTIFICATION REQUIREMENT PLACE ON QWEST?**

15 A. Qwest does not have any processes in place that would "flag" a fiber-based
16 collocator threshold since, to date, none has been needed. The only current
17 alternative would be a time and labor intensive tracking process. Furthermore, a
18 CLEC notification process would also have to be implemented. Implementing
19 such processes is costly and ultimately would not be of any benefit to end-user
20 customers.

VI. SUMMARY AND CONCLUSION

Q. PLEASE PROVIDE A BRIEF SUMMARY OF YOUR TESTIMONY.

A. Qwest's process for determining the number of fiber-based collocators in the affected non-impaired Arizona wire centers is sound and is objectively applied. This process yields an accurate list of non-impaired wire centers in the state of Arizona. Mr. Denney on behalf of the Joint CLECs does not offer any evidence to the contrary. The Joint CLECs reviewed Qwest's evidence and relied heavily on that evidence in forming their conclusions. However, they have misinterpreted how Qwest used the evidence, ignored pertinent circumstances, and subsequently reached flawed conclusions regarding the number of fiber-based collocators in Arizona wire centers.

Furthermore, Mr. Fimbres' conclusions regarding two vital issues were flawed since they were based on inaccurate perceptions of how Qwest performed its fiber-based collocation counts.

My rebuttal testimony shows that Qwest's process for determining the number of fiber-based collocators in the affected non-impaired Arizona wire centers is sound, objectively applied, and yields an accurate list of non-impaired wire centers in the state of Arizona.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does. Thank you.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. T-03632A-06-0091
DIECA COMMUNICATIONS DBA COVAD)	T-03267A-06-0091
COMMUNICATIONS COMPANY, ESCHOLON)	T-04302A-06-0091
TELECOM OF ARIZONA, INC., MCLEODUSA)	T-03406A-06-0091
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XO COMMUNICATIONS SERVICES, INC. AND)	
QWEST CORPORATION REQUEST FOR)	
COMMISSION PROCESS TO ADDRESS KEY)	
UNE ISSUES ARISING FROM TRIENNIAL)	
REVIEW REMAND ORDER, INCLUDING)	
APPROVAL OF QWEST WIRE CENTER LISTS)	

REBUTTAL EXHIBITS

OF

RACHEL TORRENCE

ON BEHALF OF

QWEST CORPORATION

OCTOBER 6, 2006

Arizona Corporation Commission

Docket No. T-03632A-06-0091

T-03267A-06-0091

T-04302A-06-0091

T-03406A-06-0091

T-03432A-06-0091

T-01051B-06-0091

Qwest Corporation

Highly Confidential Exhibit RT-8

Rebuttal Exhibits of Rachel Torrence

October 6, 2006

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Federal Communications Commission

APPENDIX F

Conditions

The Applicants have offered certain voluntary commitments, enumerated below. Because we find these commitments will serve the public interest, we accept them and adopt them as Conditions of our approval of the merger. Unless otherwise specified herein, the Conditions described herein shall become effective 10 business days after the Merger Closing Date. The Conditions described herein shall be null and void if SBC and AT&T do not merge and there is no Merger Closing Date.

It is not the intent of these Conditions to restrict, supersede, or otherwise alter state or local jurisdiction under the Communications Act of 1934, as amended, or over the matters addressed in these Conditions, or to limit state authority to adopt rules, regulations, performance monitoring programs, or other policies that are not inconsistent with these Conditions.

The term "SBC/AT&T" as used in this letter refers to SBC Communications Inc. and all of its affiliates whose financial results on the day following the Merger Closing Date would be included as consolidated subsidiaries in SBC's consolidated financial statements as required by U.S. generally accepted accounting principles.

For the purposes of these Conditions, the term "Merger Closing Date" means the day on which, pursuant to their Merger Agreement, SBC and AT&T cause a Certificate of Merger to be executed, acknowledged, and filed with the Secretary of State of New York as provided in New York Corporation Law.

Unbundled Network Elements

1. For a period of two years, beginning on the Merger Closing Date, SBC/AT&T shall not seek any increase in state-approved rates for unbundled network elements ("UNEs") that are currently in effect, provided that this restriction shall not apply to the extent any UNE rate currently in effect is subsequently deemed invalid or is remanded to a state commission by a court of competent jurisdiction in connection with an appeal that is currently pending (*i.e.*, for appeals of state commission decisions in Illinois, Indiana and Texas). In the event of a UNE rate increase in Illinois, Indiana or Texas during the two year period, following a court decision invalidating or remanding a UNE rate, SBC/AT&T may implement that UNE rate increase but shall not seek any further increase in UNE rates in that state during the two-year period. This condition shall not limit the ability of SBC/AT&T and any telecommunications carrier to agree voluntarily to any UNE rate nor does it supersede any current agreement on UNE rates.
2. Within thirty days after the Merger Closing Date, SBC/AT&T shall exclude fiber-based collocation arrangements established by AT&T or its affiliates in identifying wire centers in which SBC claims there is no impairment pursuant to section 51.319(a) and (e) of the Commission's rules. SBC/AT&T shall file with the Commission, within thirty days of the Merger Closing Date, revised data or lists that reflect the exclusion of AT&T collocation arrangements, as required by this condition.

Special Access

1. SBC/AT&T affiliates that meet the definition of a Bell operating company in section 3(4)(A) of the Act ("SBC BOCs")⁵⁷² will implement, in the SBC Service Area,⁵⁷³ the Service Quality Measurement Plan for Interstate Special Access Services ("the Plan"), as described herein and in Attachment A. The SBC BOCs shall provide the Commission with performance measurement results on a quarterly basis, which shall consist of data collected according to the performance measurements listed in Attachment A. Such reports shall be provided in an Excel spreadsheet format and shall be designed to demonstrate the SBC BOCs' monthly performance in delivering interstate special access services within each of the states in the SBC Service Area. These data shall be reported on an aggregated basis for interstate special access services delivered to (i) SBC/AT&T's section 272 affiliates, (ii) its BOC and other affiliates, and (iii) non-affiliates.⁵⁷⁴ The SBC BOCs shall provide performance measurement results (broken down on a monthly basis) for each quarter to the Commission by the 45th day after the end of the quarter. The SBC BOCs shall implement the Plan for the first full quarter following the Merger Closing Date. This condition shall terminate on the earlier of (i) thirty months and 45 days after the beginning of the first full quarter following the Merger Closing Date (that is, when SBC/AT&T file their 10th quarterly report); or (ii) the effective date of a Commission order adopting performance measurement requirements for interstate special access services.
2. For a period of thirty months after the Merger Closing Date, SBC/AT&T shall not increase the rates paid by existing customers (as of the Merger Closing Date) of the DS1 and DS3 local private line services that AT&T provides in SBC's in-region territory⁵⁷⁵ pursuant, or referenced, to its TCG FCC Tariff No. 2 above their level as of the Merger Closing Date.
3. For a period of thirty months after the Merger Closing Date, SBC/AT&T will not provide special access offerings to its wireline affiliates that are not available to other similarly situated special access customers on the same terms and conditions.
4. To ensure that SBC/AT&T may not provide special access offerings to its affiliates that are not available to other special access customers, for a period of thirty months after the Merger Closing Date, before SBC/AT&T provides a new or modified contract tariffed service under section 69.727(a) of the Commission's rules to its own section 272(a) affiliate(s), it will certify to the Commission that it provides service pursuant to that contract tariff to an unaffiliated customer other than Verizon Communications Inc., or its wireline affiliates.

⁵⁷² For purposes of these conditions, SBC Advanced Services, Inc. ("ASI") shall not be considered an SBC BOC.

⁵⁷³ For purposes of this condition, "SBC Service Area" means the areas within SBC's service territory in which SBC's Bell Operating Company subsidiaries, as defined in 47 U.S.C. § 153(4)(A), are incumbent local exchange carriers.

⁵⁷⁴ BOC data shall not include retail data.

⁵⁷⁵ For purposes of these conditions, SBC's "in-region territory" means the areas within SBC's service territory in which an SBC operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i).

SBC/AT&T also will not unreasonably discriminate in favor of its affiliates in establishing the terms and conditions for grooming special access facilities.

5. SBC/AT&T shall not increase the rates in SBC's interstate tariffs, including contract tariffs, for special access services that SBC provides in its in-region territory and that are set forth in tariffs on file at the Commission on the Merger Closing Date. This condition shall terminate thirty months from the Merger Closing Date.

Internet Backbone

1. For a period of three years after the Merger Closing Date, SBC/AT&T will maintain at least as many settlement-free U.S. peering arrangements for Internet backbone services with domestic operating entities as they did in combination on the Merger Closing Date. SBC/AT&T may waive terms of its published peering policy to the extent necessary to maintain the number of peering arrangements required by this condition.
2. Within thirty days of the Merger Closing Date, and continuing for two years thereafter, SBC/AT&T will post its peering policy on a publicly accessible website. During this two-year period, SBC/AT&T will post any revisions to its peering policy on a timely basis as they occur.

Alaska

1. SBC/AT&T acknowledges that the merger does not change carrier of last resort obligations imposed by the State of Alaska on interexchange services provided by Alascom.
2. SBC/AT&T acknowledges that the merger will not alter statutory and regulatory geographic rate averaging and rate integration rules that apply on the Merger Closing Date to Alascom.
3. SBC/AT&T agrees that, for a period of at least two years after the Merger Closing Date, they will operate Alascom as a distinct, though not structurally separate, corporate entity.

ADSL Service

1. Within twelve months of the Merger Closing Date, SBC/AT&T will deploy and offer within its in-region territory ADSL service to ADSL-capable customers without requiring such customers to also purchase circuit switched voice grade telephone service. SBC/AT&T will continue to offer this service in each state for two years after the "implementation date" in that state. For purposes of this condition, the "implementation date" for a state shall be the date on which SBC/AT&T can offer this service to eighty percent of the ADSL-capable premises in SBC's in-region territory in that state.⁵⁷⁶ Within twenty days after meeting the implementation date in a state, SBC/AT&T will file a letter with the Commission certifying to that effect. In any event, this commitment will terminate no later than three years from the Merger Closing Date.

⁵⁷⁶ After meeting the implementation date in each state, SBC/AT&T will continue deployment so that it can offer the service to all ADSL-capable premises in its in-region territory within twelve months of the Merger Closing Date.

Net Neutrality

1. Effective on the Merger Closing Date, and continuing for two years thereafter, SBC/AT&T will conduct business in a manner that comports with the principles set forth in the FCC's Policy Statement, issued September 23, 2005 (FCC 05-151).

Annual Certification

1. For three years following the Merger Closing Date, SBC/AT&T shall file annually a declaration by an officer of the corporation attesting that SBC/AT&T has substantially complied with the terms of these conditions in all material respects. The first declaration shall be filed 45 days following the one-year anniversary of the Merger Closing Date, the second and third declaration shall be filed one and two years thereafter respectively.

Sunset

1. For the avoidance of doubt, unless otherwise expressly stated to the contrary above, all conditions and commitments contained in this letter shall end on the second anniversary of the Merger Closing Date.

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF
DIECA COMMUNICATIONS DBA COVAD
COMMUNICATIONS COMPANY, ESCHOLON
TELECOM OF ARIZONA, INC., MCLEODUSA
TELECOMMUNICATIONS SERVICES, INC.,
MOUNTAIN TELECOMMUNICATIONS, INC.,
XO COMMUNICATIONS SERVICES, INC. AND
QWEST CORPORATION REQUEST FOR
COMMISSION PROCESS TO ADDRESS KEY
UNE ISSUES ARISING FROM TRIENNIAL
REVIEW REMAND ORDER, INCLUDING
APPROVAL OF QWEST WIRE CENTER LISTS.

DOCKET NO. T-03632A-06-0091
T-03267A-06-0091
T-04302A-06-0091
T-03406A-06-0091
T-03432A-06-0091
T-01051B-06-0091

STATE OF COLORADO
COUNTY OF ARAPAHOE

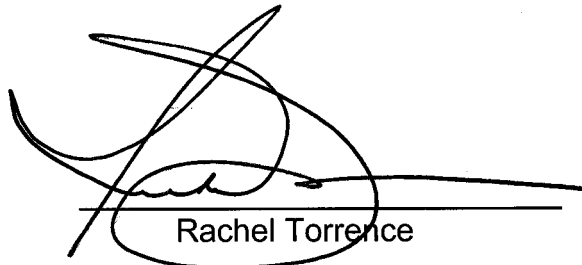
AFFIDAVIT OF
RACHEL TORRENCE

SS


Rachel Torrence, of lawful age being first duly sworn, deposes and states:

1. My name is Rachel Torrence. I am a Direct in the Network Policy Organization for Qwest Services Corporation in Littleton, Colorado. I have caused to be filed written rebuttal testimony in Docket Nos. T-03632A-06-0091, T-03267A-06-0091, T-04302A-06-0091, T-03406A-06-0091, T-03432A-06-0091, T-01051B-06-0091.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.


Rachel Torrence

SUBSCRIBED AND SWORN to before me this 2nd day of October, 2006.


Notary Public

My Commission Expires: 05-04-2008

PATRICIA M. COOPER
STATE OF COLORADO
NOTARY PUBLIC

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. T-03632A-06-0091
DIECA COMMUNICATIONS DBA COVAD)	T-03267A-06-0091
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TELECOMMUNICATIONS SERVICES, INC.,)	T-03432A-06-0091
MOUNTAIN TELECOMMUNICATIONS, INC.,)	T-01051B-06-0091
XO COMMUNICATIONS SERVICES, INC. AND)	
QWEST CORPORATION REQUEST FOR)	
COMMISSION PROCESS TO ADDRESS KEY)	
UNE ISSUES ARISING FROM TRIENNIAL)	
REVIEW REMAND ORDER, INCLUDING)	
APPROVAL OF QWEST WIRE CENTER LISTS)	

REBUTTAL TESTIMONY

OF

TERESA K. MILLION

QWEST CORPORATION

OCTOBER 6, 2006

TABLE OF CONTENTS

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II.	REPLY TO MR. DENNEY.....	2
III.	REPLY TO MR. FIMBRES.....	12
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EXHIBITS

Exhibit TKM-1 ... QWEST RESPONSE TO JOINT CLEC DATA REQUEST 1-22

Exhibit TKM-2.... QWEST RESPONSE TO JOINT CLEC DATA REQUEST 1-25

EXECUTIVE SUMMARY

My name is Teresa K. Million. I am employed by Qwest Services Corporation, parent company of Qwest Corporation ("Qwest"), as a Staff Director in the Public Policy organization and I am testifying on behalf of Qwest. In my testimony, I respond to Joint CLEC witness Douglas Denney's testimony regarding the nonrecurring charge ("NRC") that Qwest proposes to charge for the work activities that Qwest must perform in the conversion of an Unbundled Network Element ("UNE") circuit to a private line circuit. I also respond to similar testimony filed by Mr. Armando Fimbres of the Arizona Corporation Commission (ACC) Staff. Qwest is required to perform these work activities in order to transition circuits purchased by Competitive Local Exchange Carriers ("CLECs") from a UNE circuit to a private line circuit. This activity will take place in wire centers where the FCC-ordered criteria set forth in the FCC's Triennial Review Remand Order ("*TRRO*") and the FCC's associated implementation rules has shown that CLECs are not "impaired" without access to DS1 or DS3 UNE loops, or DS1 or DS3 inter-office transport.

Qwest advocates the use of an existing tariff charge which provides a fair approximation for Qwest and the CLECs of the costs that Qwest will incur when performing the conversion work activities. Qwest is asking the Commission to recognize that Qwest will incur costs when performing the UNE-to-private line circuit conversions, is entitled to recovery of those costs, and thus has the right to assess such a charge for the work that it performs.

I. INTRODUCTION

1

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH**
3 **QWEST.**

4 A. My name is Teresa K. Million. I am employed by Qwest Services Corporation,
5 parent company of Qwest Corporation ("Qwest"), as a Staff Director in the Public
6 Policy organization. In this position, I am responsible for directing the
7 preparation of cost studies and representing Qwest's costs in a variety of
8 regulatory proceedings. My business address is 1801 California St., Room 4700,
9 Denver, Colorado.

10 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?**

11 A. Yes. On June 23, 2006, I filed direct testimony in this proceeding.

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A. The purpose of my testimony is to respond to Joint CLEC witness Douglas
14 Denney's testimony regarding the nonrecurring charge ("NRC") that Qwest
15 proposes to charge for the work activities that it must perform in the conversion
16 of an Unbundled Network Element ("UNE") circuit to a private line circuit. My
17 testimony also responds to Staff witness Armando Fimbres' NRC testimony.
18 Qwest performs these work activities in transitioning circuits that must be
19 converted from UNEs to private line circuits in wire centers that the FCC has
20 deemed "non-impaired" pursuant to the FCC's Triennial Review Remand Order
21 ("TRRO") and the FCC's associated implementation rules. Qwest will utilize an
22 existing NRC to recover a portion of the costs that it incurs when implementing
23 these conversions.

¹ Webster's New World Dictionary, Simon and Schuster 1984.

1 these circuits from UNE products to private line services, and because these
2 circuits are billed, inventoried and maintained differently in Qwest's systems,
3 Qwest must process them as an "order-out" and an "order-in," and thus change
4 the circuit identifiers ("circuit IDs") to move them from one product category to the
5 other. Circuit IDs identify in a number of Qwest's systems, including the Trunk
6 Record Keeping Inventory System ("TIRKS") database and the Work Force
7 Administration ("WFA") system, among other things, whether a circuit is a UNE or
8 a private line, what type of testing parameters apply, and which maintenance and
9 repair center is responsible for that circuit.

10 In order to ensure that the conversion process is transparent to the CLEC and its
11 customers' services, Qwest interjects a number of manual activities into the
12 process so that certain automated steps do not occur that could otherwise result
13 in disruption of those services. The purpose of many of the tasks included in the
14 conversion process is to avoid placing the CLECs' end-user customers at risk.
15 To date, after more than 500 conversions involving this type of circuit ID change,
16 Qwest is not aware of any complaints from CLECs about customers whose
17 service has been disrupted by this conversion process. Therefore, Mr. Denney's
18 attempts to emphasize "potential risks" in Qwest's process to the CLECs'
19 customers is merely a smokescreen and proves exactly why Qwest undertakes
20 those steps, thereby making the conversion transparent.

21 **Q. IS MR. DENNEY CORRECT WHEN HE ARGUES (AT PAGE 56) THAT**
22 **QWEST'S CONVERSION OF UNES TO PRIVATE LINE CIRCUITS IS NOT**
23 **REQUIRED BY THE TRRO?**

24 **A.** No. For wire centers that the FCC has deemed to be "non-impaired," Qwest is
25 no longer required to provide access to DS1 or DS3 UNE loops or inter-office

transport. This FCC determination in the *TRRO* means that Qwest is no longer required to price these services at Total Element Long Run Incremental Cost ("TELRIC") costs. UNEs are priced at TELRIC costs, and thus, in order for Qwest to be able to price these services at something other than TELRIC, *as the TRRO entitles it to do*, it is necessary for Qwest to convert them to private line services. What this means from an operational standpoint is that if a CLEC remains on Qwest's facilities at the affected wire centers (instead of disconnecting the UNEs and availing itself of alternative facilities), Qwest must convert those UNEs to private line services. If Qwest were not allowed to convert the UNE circuits to private line circuits, the FCC's non-impairment findings in the *TRRO* would be essentially rendered meaningless. In addition, if Qwest were to perform the activities associated with a conversion, but were not allowed to charge the CLEC for those activities, the cost burden would be unfairly shifted to Qwest and its end-user customers, thereby placing Qwest at a disadvantage in a marketplace which the FCC has determined to be competitive. Thus, to the extent that Qwest incurs costs to facilitate the CLEC's conversion from a UNE to a private line service, Qwest should be entitled to assess an appropriate charge.

Q. MR. DENNEY ASSERTS AT PAGE 64 OF HIS TESTIMONY THAT CHANGING THE CIRCUIT ID IS MERELY A CONVENIENCE FOR QWEST. IS HE CORRECT?

A. No. As I explained in my direct testimony, FCC rules require that telephone carriers accurately maintain records that track inventories of circuits. Specifically, 47 C.F.R. 32.12(b) and (c) provides as follows:

(b) The company's financial records shall be kept with sufficient particularity to show *fully* the facts pertaining to all entries in these

accounts. The detail records shall be filed in such manner as to be readily accessible for examination by representatives of this Commission.

(c) The Commission shall require a company to maintain financial and other subsidiary records in such a manner that specific information, of a type not warranting disclosure as an account or subaccount, will be readily available. When this occurs, or where the full information is not otherwise recorded in the general books, the subsidiary records shall be maintained **sufficient detail to facilitate the reporting of the required specific information**. The subsidiary records, in which the full details are shown, shall be sufficiently referenced to permit ready identification and examination by representatives of this Commission [FCC]. (Emphasis added.)

Thus, Qwest is *required* to maintain subsidiary records in sufficient detail to align specific circuits with the billing, accounting, and jurisdictional reporting requirements related to the services that these circuits support. In other words, Qwest must be able to distinguish for purposes of tracking and reporting its UNE products from its other products, such as its tariffed private lined services. Qwest accomplishes this through the use of circuit IDs and other appropriate codes, depending on the systems affected by the requirement. Not only does changing the circuit ID facilitate the proper reporting of these two products, as Qwest is required to do, but it also ensures that the CLEC will receive support for testing, maintenance and repair from the appropriate Qwest centers. Because the *TRRO* entitles Qwest to charge CLECs something other than TELRIC rates for the DS1 and DS3 facilities provisioned out of non-impaired wire centers, Qwest must re-characterize those facilities from UNEs to private line services. In order to sufficiently maintain its subsidiary records to support its accounting, repair and maintenance for UNEs versus its private line services, Qwest must have accurate circuit identifiers that properly track circuits separately in systems such as TIRKS and WFA.

1 **Q. MR. DENNEY SUGGESTS AT PAGE 63 OF HIS TESTIMONY THAT THE FCC**
2 **REQUIREMENTS YOU CITE ABOVE DO NOT PRESCRIBE HOW QWEST IS**
3 **TO USE CIRCUIT IDENTIFIERS TO MAINTAIN ITS RECORDS. HOW DO**
4 **YOU RESPOND?**

5 **A.** Mr. Denney's suggestions ignore the fact that the circuit ID is Qwest's only
6 means of tracking the difference between UNEs and private lines in systems
7 such as the TIRKS database and WFA. These systems are used to inventory
8 circuits and assign repair and maintenance of the circuits to the appropriate
9 Qwest centers. This is important because the repair, testing and maintenance of
10 circuits for UNEs and private lines are handled out of different work centers. In
11 the long run, Qwest is able to maintain, track and service all of its customers,
12 including CLECs and their end-user customers, better and more efficiently if it is
13 able to identify accurately the types of services and facilities it is providing to
14 these respective categories of customers. It would be grossly inefficient,
15 expensive and wasteful for Qwest to make changes to its myriad of legacy
16 systems, processes and tracking mechanisms, such as circuit IDs, in order to
17 accommodate each new regulatory nuance regarding how it offers its services to
18 its customers and its competitors. Qwest has already expended hundreds of
19 millions of dollars to enhance and modify its ordering, provisioning and inventory
20 systems to be able to appropriately track facilities it has been required to provide
21 as UNEs. It should not now have to spend millions more to modify its systems
22 one more time in order to track these same facilities yet another way. The costs
23 associated with this type of system/process rework simply do not make sense in
24 a competitive environment, and such costs would place an unfair burden on
25 Qwest, especially when Qwest already has systems and identifiers in place to
26 track private line services.

1 Q. AT PAGE 61 OF HIS TESTIMONY, MR. DENNEY EQUATES THE
2 CONVERSION OF DS1 AND DS3 UNES TO PRIVATE LINE SERVICES WITH
3 THE CONVERSION OF UNE-P TO QPP. IS HIS COMPARISON
4 APPROPRIATE?

5 A. No. As Qwest has explained in response to Mr. Denney in Utah, Oregon and
6 now Arizona, because of the nature of Qwest's Qwest Platform Plus™ ("QPP")
7 product the *loop portion* of the product is identified by the telephone number for
8 purposes of billing, maintenance and repair. Therefore, because the telephone
9 number does not change, nothing about the character, form or function of the
10 loop changes whether it is part of UNE-P or QPP and it can be billed differently
11 through the assignment of new universal service order codes ("USOCs") without
12 consideration for other systems or centers. Yet despite receiving this same
13 explanation in Utah and Oregon, Mr. Denney continues to argue, at pages 61
14 and 62 of his testimony, that Qwest has accomplished the transition from UNE-P
15 to QPP without changing circuit IDs. *There is no circuit ID* associated with the
16 loop in the case of a finished service such as UNE-P or QPP. Furthermore, as
17 part of UNE-P, these elements were already being billed out of the Customer
18 Record Information System ("CRIS") billing system, and thus a change in USOCs
19 was all that was necessary to effectuate new rates. Clearly, the way in which
20 Qwest tracks the loop for purposes of repair and maintenance do not change as
21 a result of the conversion from UNE-P to QPP. Thus, Mr. Denney's comparison
22 on this point is not meaningful.

23 In the case of DS1 and DS3 UNEs, however, the character of the product
24 offering is changing. As I discussed above, as UNEs, DS1s and DS3s are
25 available at TELRIC rates only to CLECs. Thus, in wire centers that continue to
26 be identified as "impaired" going forward, Qwest must still offer those products as

1 UNEs, unlike the switching and shared transport components of UNE-P which
2 are no longer classified as UNEs at all. In order to charge a rate for the DS1 and
3 DS3 services in the non-impaired wire centers at something other than TELRIC,
4 as Qwest is entitled to do under the FCC's *TRRO* decision, Qwest must re-
5 classify them as something other than UNEs. In the case of UNE-P, Qwest was
6 not converting a UNE product to an existing tariffed equivalent because QPP did
7 not previously exist. In the case of DS1s and DS3s, however, Qwest has a
8 product offering that is a tariffed equivalent to its UNE offering. Thus, in
9 converting the UNE product to a tariffed private line product, Qwest must change
10 the circuit ID in order to properly track these differently-characterized products in
11 the appropriate systems.

12 **Q. AT PAGE 61 OF HIS TESTIMONY, MR. DENNEY ALSO PROVIDES**
13 **EVIDENCE OF THE CHANGE OF DS0 LOOPS TO A DIFFERENT RATE IN**
14 **OMAHA AS SUPPORT FOR HIS POSITION THAT QWEST SHOULD NOT**
15 **HAVE TO CHANGE CIRCUIT IDS FOR DS1S AND DS3S. PLEASE**
16 **COMMENT.**

17 **A.** As is the case with QPP, DS0 unbundled loops in Omaha present a different set
18 of circumstances than the DS1 and DS3 products. For example, DS0 unbundled
19 loops do not have an existing tariffed counterpart, such as private line, like DS1
20 and DS3 products do. Therefore, because there was no existing equivalent
21 service to convert the DS0 loops to, Qwest did not have any choice but to create
22 a new wholesale product in order to charge the higher rates for loops allowed by
23 the *Omaha Forbearance Order*.² In addition, the DS0 unbundled loops in Omaha

² Memorandum Opinion and Order on the Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. §160 in the Omaha Metropolitan Statistical Area, FCC 05-170, WC Docket No. 04-233, effective September 16, 2005 ("Omaha Forbearance Order").

1 provide far fewer difficulties because there are fewer of them, they come in fewer
2 "flavors" of products, and like UNE-P, they are billed out of the CRIS system, and
3 that does not change. Further, the DS0s in Omaha are limited to only nine wire
4 centers, and only about 3,000 loops in total. Thus, although the circuit IDs for
5 DS0 loops are not changing, and the process used to track them is entirely
6 manual, the change process is limited in scope to a small subset of loops.

7 In the case of DS1s and DS3s, however, it would be unduly burdensome and
8 expensive for Qwest to have to manually track all of the affected circuits in 12
9 states and 76 wire centers when there are processes and systems in place that
10 Qwest and the CLECs can make use of by simply converting those circuits to
11 private line services. Once again, Mr. Denney is comparing apples to oranges
12 when he compares DS1s and DS3s, which do have existing tariffed equivalents
13 that require circuit ID changes, to DS0 loops that have different characteristics.
14 Furthermore, Mr. Denney fails to mention that even in Omaha, for DS1 and DS3
15 products that are no longer required to be provided as UNEs under the *Omaha*
16 *Forbearance Order*, Qwest is using the same process, and the same existing
17 tariff charge, to convert those circuits to private line services that it is proposing
18 for the *TRRO*-affected circuits.

19 **Q. MR. DENNEY POINTS OUT AT PAGE 62 OF HIS TESTIMONY THAT WHEN**
20 **SOME CLECS ORIGINALLY CONVERTED THEIR PRIVATE LINE CIRCUITS**
21 **TO UNES, THEY WERE GIVEN AN OPPORTUNITY TO KEEP THEIR**
22 **PRIVATE LINE CIRCUIT IDS. IS HE CORRECT?**

23 **A.** Yes. However, this was so only because those CLECs objected to Qwest's
24 efforts to convert those private line circuit IDs to circuit IDs representing UNE
25 products. As Qwest pointed out in its responses to the Joint CLECs' data

request nos. 22 and 25, attached as Exhibits TKM-1 and TKM-2, respectively, Qwest only offered that option to a limited number of CLECs with embedded circuits established before April 2005. Mr. Denney quotes only a line from each of these data requests in his testimony at page 62, leaving a different impression than was provided in Qwest's full responses. As explained, the reason for discontinuing that practice in 2005 was that Qwest had discovered, after allowing the circuit IDs to remain unchanged initially, that it was experiencing difficulty in managing the circuits, and it was incurring a substantial amount of expense on the resources necessary to manually track those circuits individually in order to maintain its subsidiary records accurately. Therefore, as of April 2005, that option is no longer available, and thus, any circuit additions or changes made to circuits after that date are required to change circuit IDs as well. Currently, there are fewer than 7% of all DS1 and DS3 UNEs that still have private line circuit IDs. Qwest has accounted for those circuits in its conversion cost study, and thus does not include activities, or the associated costs, triggered by a change of circuit ID for those "grandfathered" circuits in its conversion costs.

Q. MR. DENNEY SUGGESTS AT PAGE 72 OF HIS TESTIMONY THAT THE COMMISSION SHOULD DETERMINE A RATE FOR UNE-TO-PRIVATE LINE CONVERSIONS ON THE BASIS OF QWEST'S EXISTING TELRIC RATES. IS THAT APPROPRIATE?

A. No. There are two primary flaws with Mr. Denney's discussion about the appropriate rate for these conversions.

First, assigning a TELRIC rate for the nonrecurring charge associated with a tariffed interstate private line service would be both an inappropriate application of TELRIC rates and outside the scope of this Commission's jurisdiction.

1 Nonrecurring TELRIC charges should only be associated with the establishment
2 of UNE products. In this case, the product being established is a tariffed private
3 line service. Qwest has an existing tariffed NRC that it is recommending as a
4 reasonable charge for converting the UNEs to private line circuits.

5 Second, Mr. Denney mentions in his discussion of TELRIC rates for private line
6 to UNE conversions two states, Minnesota and Utah. The Minnesota
7 Commission, however, has historically set nonrecurring and other rates that were
8 significantly lower than the rates in other Qwest states largely on the basis of
9 AT&T studies that were not presented or adopted in those other states. Further,
10 while the Utah Commission set the second-lowest rate for conversions in
11 Qwest's 14-state region, it did so on the basis that the process would require little
12 or no manual activity, and thus that Qwest's time estimates should be reduced by
13 40%. Mr. Denney does present Arizona's rate as being \$40.32, but fails to
14 mention that this rate is for a conversion process that did not anticipate the need
15 to change circuit IDs. Thus, if the rates determined in these three states had
16 been based on the process as it now exists, with the necessary circuit ID
17 changes, the resulting rate would likely have been well above the existing tariffed
18 charge that Qwest recommends for this activity.

19 **Q. HAVE ANY OF THE OTHER COMMISSIONS IN QWEST'S STATES**
20 **DETERMINED A RATE FOR THIS CONVERSION PROCESS?**

21 **A.** No. The appropriate treatment of the conversion charge has yet to be addressed
22 in most of Qwest's states where there are TRRO proceedings being conducted.
23 However, the Utah Commission's recent decision³ in this matter agreed with

³ In the Matter of the Investigation into Qwest Wire Center Data, Report and Order, Docket No. 06-049-40, September 11, 2006, page 36.

Qwest that it is entitled to charge CLECs a nonrecurring fee for the costs of converting UNEs to private line services. Although the Utah Commission did not order a specific nonrecurring rate, it did direct Qwest to submit cost information in support of those costs. Of course, as I mentioned above, the costs for the conversion process result in a rate that is well above the existing tariffed charge that Qwest recommends for this activity.

III. REPLY TO MR. FIMBRES

Q. MR. FIMBRES STATES AT PAGE 17 OF HIS TESTIMONY THAT HE BELIEVES THE CONVERSION PROCESS IS BASED ON QWEST'S NEED TO CHANGE FROM ONE BILLING SYSTEM TO ANOTHER. PLEASE COMMENT.

A. Mr. Fimbres' characterization of Qwest's conversion process as a change of billing systems oversimplifies the process. At page 18 of his testimony Mr. Fimbres states that the conversion is "driven by Qwest's billing needs, not the service needs of UNE customers...." Yet, at page 19 of his testimony, Mr. Fimbres acknowledges that Qwest must change circuit IDs in order to properly track these two products, and that "[w]ithout such a change, a UNE circuit may not be easily distinguishable from a private line circuit or its equivalent..."

First, it is important to note that once a wire center is designated as non-impaired, CLECs are no longer "UNE customers" with respect to DS1 and DS3 circuits; they are simply wholesale customers, and thus they are no longer entitled to purchase those facilities in those wire centers at TELRIC rates. Second, as I have described above in response to Mr. Denney's testimony, the fact that the CLECs' product is changing from that of a UNE to a private line

1 service drives more than just billing changes. It also drives how the product is
2 accounted for, and how it is reported to the FCC, as well as how it is ordered,
3 and by whom it is maintained, repaired and tested. This means not only changes
4 to the many systems in which Qwest's products are tracked, but also changes to
5 the centers in which these functions are processed due to the product
6 differences. Therefore, the benefit of properly converting UNEs to private line
7 circuits via a circuit ID change is not merely a billing convenience for Qwest, but
8 also results in more accurate and efficient processing of orders, maintenance
9 and repairs of these circuits for the CLECs and their end-user customers after
10 the conversion have taken place.

11 **Q. MR. FIMBRES IS PUZZLED BY THE DISCUSSION IN YOUR TESTIMONY**
12 **ABOUT THE NEED FOR CLECS TO MAKE A PROPER ECONOMIC**
13 **ASSESSMENT AMONG AVAILABLE ALTERNATIVES. PLEASE CLARIFY**
14 **YOUR POSITION.**

15 **A.** The point of the discussion at page 4 of my direct testimony is that if the CLECs
16 are permitted to remain on Qwest facilities and be converted to private line
17 circuits at no cost to them, that alternative must be more economically attractive
18 than converting to another carrier's facilities because, presumably, the other
19 carrier will assess a charge for establishing service. In the first instance, Qwest
20 must bear the cost of the conversion, but in the second instance, the CLEC must
21 bear the cost of the conversion. This distorts the CLEC's choice among
22 alternative facilities, and thus forces Qwest to forego recovery of its costs of
23 providing service to the CLEC, while other carriers are allowed to recover their
24 costs. As I have stated above, this situation puts Qwest at a disadvantage in a
25 marketplace that the FCC has deemed competitive.

1 **Q. MR. FIMBRES RECOMMENDS THAT QWEST WAIVE THE CHARGES FOR**
2 **CONVERTING UNES TO PRIVATE LINE CIRCUITS. HOW DO YOU**
3 **RESPOND?**

4 **A.** Mr. Fimbres seems to makes the same mistake that Mr. Denney makes when he
5 argues that Qwest incurs nonrecurring costs based on its own choices and for its
6 own convenience. This is simply not true. It is the *CLECs* who make the choice
7 to remain on Qwest facilities. As I have discussed above, *UNEs* are priced at
8 non-compensatory TELRIC costs, and thus if Qwest were not allowed to convert
9 the *UNE* circuits in non-impaired wire centers to private line circuits in cases
10 where *CLECs* remain on Qwest facilities, the FCC's non-impairment findings in
11 the *TRRO* would be essentially rendered meaningless. Furthermore, it is clear
12 that the FCC contemplated in the *TRRO* that among the alternative services
13 available to *CLECs* in non-impaired wire centers are an *ILEC's* existing tariffed
14 services, *i.e., private line sevices*.⁴ Thus, Qwest should not be forced to establish
15 a new product, new processes or new systems at a cost of millions of dollars in
16 order to track its facilities in yet another manner when it already has an existing,
17 equivalent, tariffed product and existing systems and processes that are
18 available for purposes of continuing to provide those facilities to the *CLECs*. Nor
19 is Qwest making process and system "choices" when it uses the systems and
20 processes that have existed for purposes of provisioning private line circuits for
21 both retail and carrier customers since long before the 1996 Telecom Act was
22 even envisioned. It is far more efficient, not to mention more cost- effective, for
23 Qwest and its customers, *including its CLEC customers*, to take advantage of
24 existing services and thus to simply convert *CLEC UNEs* to private line circuits in
25 non-impaired wire centers than it would be to develop something new. Finally,

⁴ *TRRO*, at ¶ 195.

1 these conversions do not come without costs. And, just as there would be costs
2 to CLECs if they choose to move to their own facilities, or costs if they were to
3 lease facilities from other carriers, there are costs if they choose to remain on
4 Qwest's facilities. Accordingly, it would be inappropriate and discriminatory for
5 the Commission to assert jurisdiction and deny Qwest the ability to assess a
6 charge for activities it performs for conversions when it does not assert similar
7 jurisdiction over the charges other carriers assess in instances where CLECs
8 choose to obtain alternative facilities.

9 IV. CONCLUSION

10 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

11 A. Qwest is required to perform the work activities identified in its conversion cost
12 study in order to transition circuits that CLECs purchase when a UNE is
13 converted to a private line circuit, including the changing of the circuit ID.
14 Qwest's process is transparent to CLECs and is designed to ensure that there is
15 no disruption to CLEC end-user customers.

16 It makes sense in a competitive environment for Qwest to use its existing
17 systems, processes and identifiers (and thus not develop and establish new,
18 costly ones) to be able to distinguish between UNEs and private line services for
19 purposes of provisioning, maintenance and repair. In the long run, Qwest will be
20 able to serve all of its customers, including CLECs and their end-user customers,
21 better and more efficiently, if it is able to accurately identify the types of services
22 and facilities that it is providing to these respective categories of customers.
23 Therefore, if a CLEC does not choose to use alternative facilities to replace the
24 Qwest UNE circuits that it is no longer entitled to purchase at TELRIC rates,

1 Qwest should be allowed to charge that CLEC for the activities that Qwest
2 undertakes to convert those circuits from UNEs to private line services.

3 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 **A.** Yes, it does.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN MAYES
BARRY WONG

IN THE MATTER OF THE APPLICATION OF)	DOCKET NO. T-03632A-06-0091
DIECA COMMUNICATIONS DBA COVAD)	T-03267A-06-0091
COMMUNICATIONS COMPANY, ESCHOLON)	T-04302A-06-0091
TELECOM OF ARIZONA, INC., MCLEODUSA)	T-03406A-06-0091
TELECOMMUNICATIONS SERVICES, INC.,)	T-03432A-06-0091
MOUNTAIN TELECOMMUNICATIONS, INC.,)	T-01051B-06-0091
XO COMMUNICATIONS SERVICES, INC. AND)	
QWEST CORPORATION REQUEST FOR)	
COMMISSION PROCESS TO ADDRESS KEY)	
UNE ISSUES ARISING FROM TRIENNIAL)	
REVIEW REMAND ORDER, INCLUDING)	
APPROVAL OF QWEST WIRE CENTER LISTS)	

REBUTTAL EXHIBITS

OF

TERESA K. MILLION

QWEST CORPORATION

OCTOBER 6, 2006

Arizona
T-03632A-06-0091,
Joint CLECs 01-022

Qwest Corporation - Exhibit TKM-1

INTERVENOR: Covad Communications Co., Eschelon Telecom
McLeodUSA Telecomm. Services, Inc., and XO Communications
Rebuttal Exhibits of Teresa K. Million
October 6, 2006

REQUEST NO: 022

Joint CLEC Request 01-022: [Million Direct pages 7 - 9] Is there any time when Qwest changed the code used to maintain its inventory of circuits and did not change the embedded base of circuits to the new format?

RESPONSE:

Prior to April 2005, Qwest did not require a change to the circuit IDs when a CLEC requested conversions from Private Line/Special Access to EEL; these circuits retained the Private Line service code modifiers. However, because of the difficulty this practice caused with Qwest's ability to track these products correctly in its systems, effective April 8, 2005, Qwest began utilizing the industry standard service code modifiers specific to EEL, and also established service code modifiers specific to Loop Mux Combo (LMC). Circuit IDs were required to be changed to reflect the new service code modifiers on all new requests, as well as new conversion requests from Private Lines to EEL/LMC and change orders on existing EEL/LMC circuits. Qwest also implemented the changes to those EEL and LMC Loops in the embedded base.

There were some CLECs that requested to opt out of the changes to their embedded base, which Qwest allowed. Those circuits remaining in the EEL/LMC embedded base with a Private Line circuit ID represent less than 7% of the total circuits impacted by the UNE to Private Line conversions. These circuits will retain their Private Line circuit IDs when they are converted from EEL/LMC to Private Lines. The conversion cost study has been adjusted to reflect those circuits that do not require circuit ID changes as part of the conversion process.

Respondent: Terri Million, Staff Director

Arizona

T-03632A-06-0091, &

Joint CLECs 01-025

Qwest Corporation - Exhibit TKM-2

Rebuttal Exhibits of Teresa K. Million

October 6, 2006

INTERVENOR: Covad Communications Co., Eschelon Telecom
McLeodUSA Telecomm. Services, Inc., and XO Communications

REQUEST NO: 025

[Million Direct pages 7 - 9] Please confirm that EEL circuits, where Qwest historically did not change the circuit ID, are being managed properly in the PD/PAP in Arizona.

RESPONSE:

Yes, EEL circuits are being managed properly in the PID/PAP reporting in Arizona. However, as discussed in response to Joint CLECs 01-022, because the circuit IDs do not properly reflect the products to which they are assigned, Qwest has difficulty tracking the EEL circuits in its systems, and therefore must manually track those circuits in order to report them properly. For that reason, effective April 8, 2005, Qwest has required changes to the circuit ID on all new requests, conversions and change orders on existing EEL/LMC circuits.

Respondent: Terri Million, Staff Director

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF
DIECA COMMUNICATIONS DBA COVAD
COMMUNICATIONS COMPANY, ESCHOLON
TELECOM OF ARIZONA, INC., MCLEODUSA
TELECOMMUNICATIONS SERVICES, INC.,
MOUNTAIN TELECOMMUNICATIONS, INC.,
XO COMMUNICATIONS SERVICES, INC. AND
QWEST CORPORATION REQUEST FOR
COMMISSION PROCESS TO ADDRESS KEY
UNE ISSUES ARISING FROM TRIENNIAL
REVIEW REMAND ORDER, INCLUDING
APPROVAL OF QWEST WIRE CENTER LISTS.

STATE OF COLORADO
COUNTY OF DENVER

DOCKET NO. T-03632A-06-0091
T-03267A-06-0091
T-04302A-06-0091
T-03406A-06-0091
T-03432A-06-0091
T-01051B-06-0091

AFFIDAVIT OF
TERESA K. MILLION

SS

Teresa K. Million, of lawful age being first duly sworn, deposes and states:

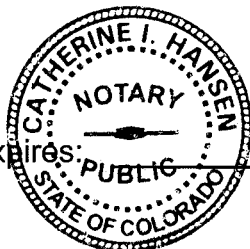
1. My name is Teresa K. Million. I am a Staff Director – Public Policy for Qwest Services Corporation in Denver, Colorado. I have caused to be filed written rebuttal testimony in Docket Nos. T-03632A-06-0091, T-03267A-06-0091, T-04302A-06-0091, T-03406A-06-0091, T-03432A-06-0091, T-01051B-06-0091.
2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

Further affiant sayeth not.

Teresa K. Million

Teresa K. Million

SUBSCRIBED AND SWORN to before me this 2nd day of October, 2006.



My Commission Expires _____

Catherine I. Hansen

Notary Public

My Commission Expires July 25, 2008